



MORAY LOCAL REVIEW BODY

20 APRIL 2023

SUMMARY OF INFORMATION FOR CASE No LR286

Planning Application 22/01594/APP – Proposed erection of garage/storage shed and partial change of use from Farm Land to Garden Ground at The Forecourt, Cummingston

Ward 5 – Heldon and Laich

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 19 January 2023 on the grounds that:

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

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

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

No further representations were received.

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

The Appointed Officer's response is attached as **Appendix 3**. There was no response from any of the Interested Parties.

The Applicant's response to the Appointed Officer's comments is attached at **Appendix 4**



Location plan for Planning Application Reference Number : 22/01594/APP



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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: 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 100605113-001

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

Description of Proposal

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

Proposed Erection of Garage/Storage Shed and Partial Change of Use from Farm Land to Garden Ground

Has the work already been started and/ or completed? *

☐ No ☒ Yes - Started ☐ Yes – Completed

Applicant or Agent Details

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

☒ Applicant ☐ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Machin Dunn + MacFarlane		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	
Last Name: *	MacFarlane	Building Number:	11
Telephone Number: *	01259 212962	Address 1 (Street): *	Bank Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Alloa
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 1HP
Email Address: *	neil@mdm-architecture.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	The Forecourt
First Name: *	John	Building Number:	
Last Name: *	Marshall	Address 1 (Street): *	Cummingston
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Elgin
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5XY
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

THE FORECOURT

Address 2:

CUMMINGSTON

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 5XY

Please identify/describe the location of the site or sites

Northing

868851

Easting

312787

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Trees

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

☐ Yes ☒ No

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

Access and Parking

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

☒ Yes ☐ No

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

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

4

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

4

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

Planning Service Employee/Elected Member Interest

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

Certificates and Notices

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

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

Are you/the applicant the sole owner of ALL the land? * ☐ Yes ☒ No

Is any of the land part of an agricultural holding? * ☒ Yes ☐ No

Do you have any agricultural tenants? * ☐ Yes ☒ No

Are you able to identify and give appropriate notice to ALL the other owners? * ☒ Yes ☐ No

Certificate Required

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

Certificate B

Land Ownership Certificate

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

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

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

Name:

Address:

Strathdee Properties Limited Viewfield Farm, Craigellachie, Aberlour, Scotland, AB38 9QT

Date of Service of Notice: *

01/11/2022

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

or –

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

Name:

Address:

Date of Service of Notice: *

Signed: Neil MacFarlane

On behalf of: Mr John Marshall

Date: 31/10/2022

☐ Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

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

a) Have you provided a written description of the development to which it relates?. * ☐ Yes ☐ No

b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * ☐ Yes ☐ No

c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.? * ☐ Yes ☐ No

d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. ☐ Yes ☐ No

e) Have you provided a certificate of ownership? * ☐ Yes ☐ No

f) Have you provided the fee payable under the Fees Regulations? * ☐ Yes ☐ No

g) Have you provided any other plans as necessary? * ☐ Yes ☐ No

Continued on the next page

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

You can attach these electronic documents later in the process.

☐ Existing and Proposed elevations.

☐ Existing and proposed floor plans.

☐ Cross sections.

☐ Site layout plan/Block plans (including access).

☐ Roof plan.

☐ Photographs and/or photomontages.

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

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

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

Declare – For Householder Application

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

Declaration Name: Mr Neil MacFarlane

Declaration Date: 31/10/2022

Payment Details

Telephone Payment Reference:

Created: 31/10/2022 16:55

Note - Sub-soil PercolationTesting Carried Out By Others (Refer Cameron & Ross Report 26.10.16) In Accordance With BS6297:1993 Confirmed An Average Sub-soil Percolation Value (Vp) of 16.4 secs/mm

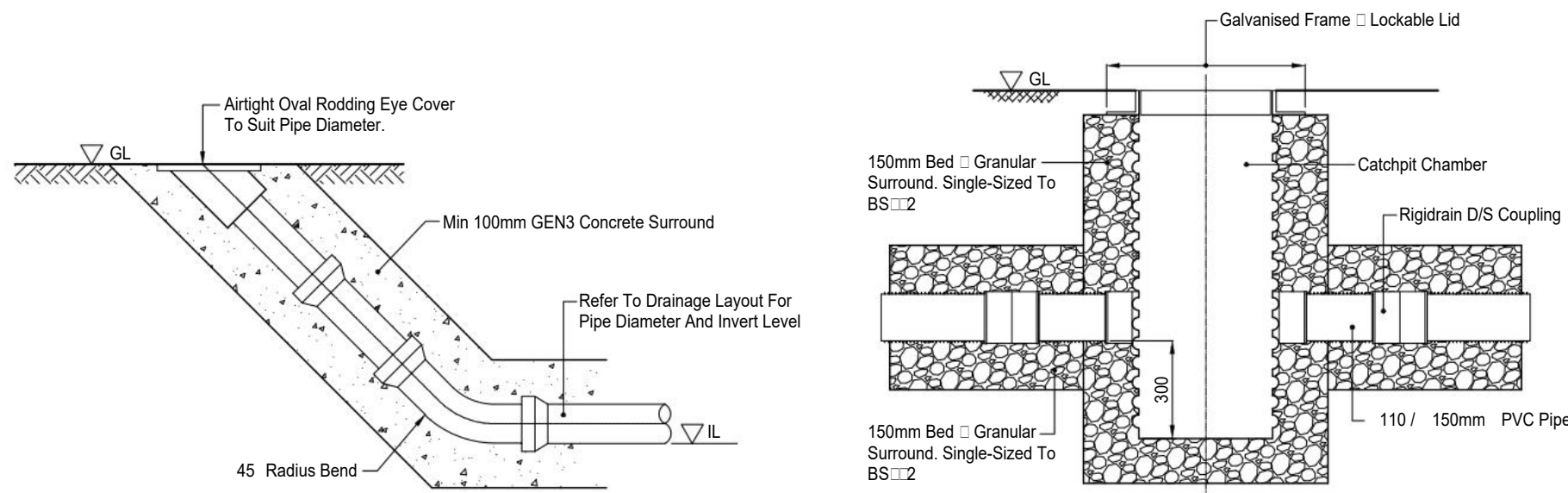
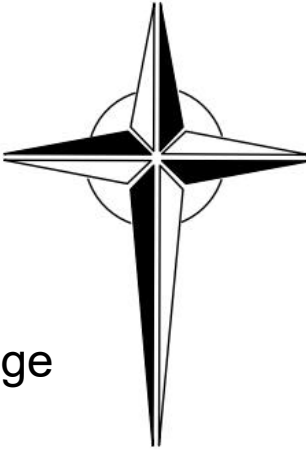
Note - Soakaway To Be Constructed At Least 5m From Boundaries & Buildings

5m Long x 1m Wide x 0.9m Deep Soakaway - See Seperate Detail

SWCP

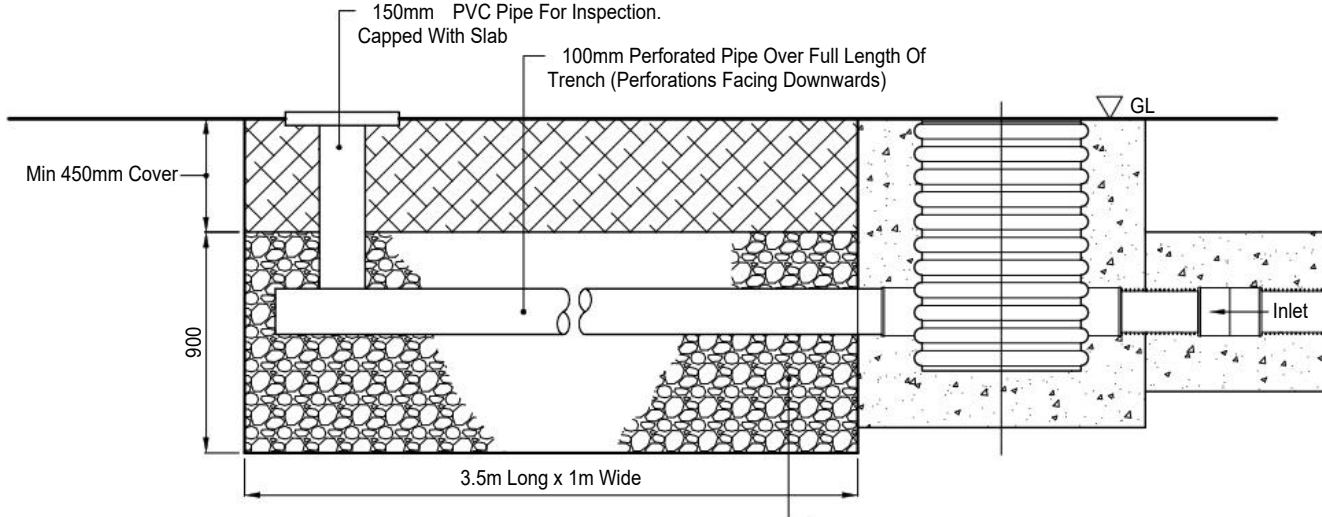
Garage Roof Area <= 2 sq.m.

North

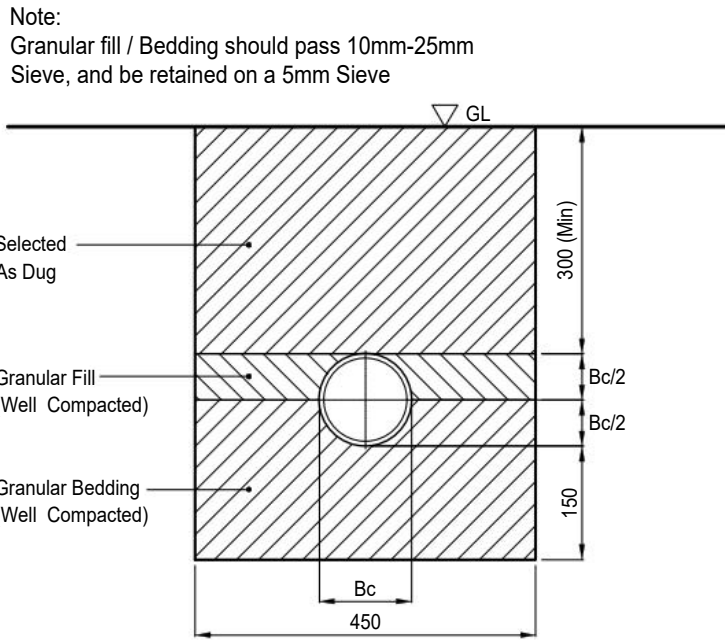


Typical Rodding Eye Detail

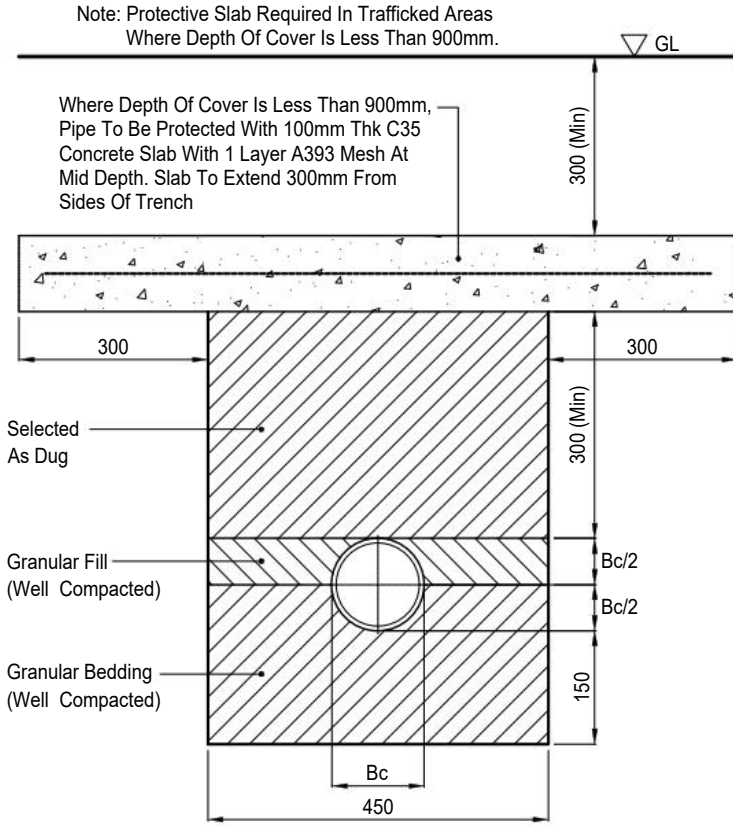
Rigidrain Catchpit Chamber



Soakaway Trench Detail



Bedding For Pipe In Single Trench



Bedding For Pipe In Single Trench, Trafficked Areas

Notes:

Proposed Drainage Legend

- R/E: Denotes Surface Water Rodding Eye
- SWIC: Denotes Surface Water Inspection Chamber
- SWCP: Denotes Surface Water Catch Pit
- Denotes 100mm PVC Storm Water Sewer Laid At 1:100 U.N.O.
- Denotes 100mm Perforated Carrier Pipe Within Filter Sub-base
- Denotes Storm Water Deep Filter Sub-base

Incurtiage Drainage Notes

- All Levels Shown Must Be Confirmed On Site Prior To Commencing Work.
- The Contractor Should Evaluate Which Drainage Lines Require Concrete Protection, As A Result Of The Crown Of The Pipe Being 1.2m From The Finished Trafficked Level.
- The Contractor Must Ensure That The Location Of RWP's & SVP's Indicated On This Drawing Coincide With The Location Of The RWP's & SVP's On The Architects Current Building Layout Plan.
- Refer To Architects Internal Layout For All Internal POP UP/SVP Setting Out Locations.
- All Pipe To Pipe Connections Are To Be Made Crown Of Pipe To Crown Of Pipe Unless Noted Otherwise.
- All Drainage To Be Installed In Accordance With The Manufacturers Recommendations And With Section 3 - Environment: Scottish Building Standards Agency - Technical Handbooks.
- All External Drainage To Be Constructed And Installed In Accordance With BS EN 752-3: 1997 (Amendment 2), BS EN 752-4: 1997 And BS EN 1610: 1997.

The Contractor Must Check All Invert Levels On The Existing Manholes As Soon As They Takes Control Of The Site And Advise Engineer To Allow A Check Of The Drainage To Be Carried Out.

ANY VARIATION FROM THE DESIGN SHOWN ON THIS DRAWING MUST BE NOTIFIED TO THE ENGINEER & HIS APPROVAL MUST BE OBTAINED. ANY UNAUTHORISED VARIATION FROM THE DESIGN MAY INVALIDATE ANY CERTIFICATION. IF IN DOUBT CONTACT THE ENGINEER.

THE CONTRACTOR MUST CONTACT THE ENGINEER PRIOR TO COMMENCING ANY WORK TO DISCUSS AND ENSURE FULL UNDERSTANDING OF THE DESIGN INTENT.

Revision	Description	By	Date

Client

Mr. J. Marshall

Architect

Machin Dunn & MacFarlane Limited



Tel: 01753 649639 email: admin@drgcd.co.uk

Project

Proposed Garage/Storage Shed At The Forecourt, Cummingsstoun, Lossiemouth

Drawing

Proposed SW Drainage Layout & Details

DRAWING STATUS: FOR INFORMATION

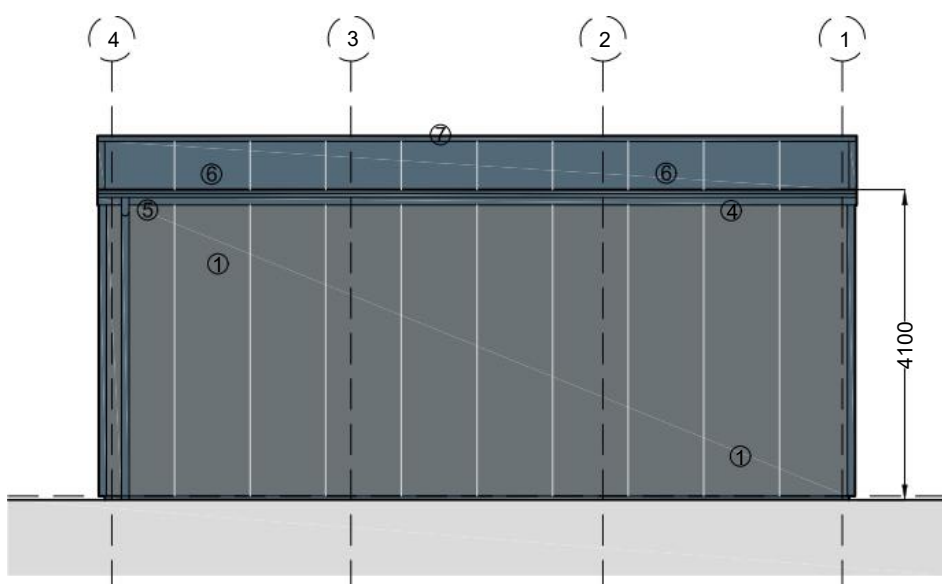
Engineer: KD Date: 13.12.22
Technician: Date:

Project No. Drawing No. Revision

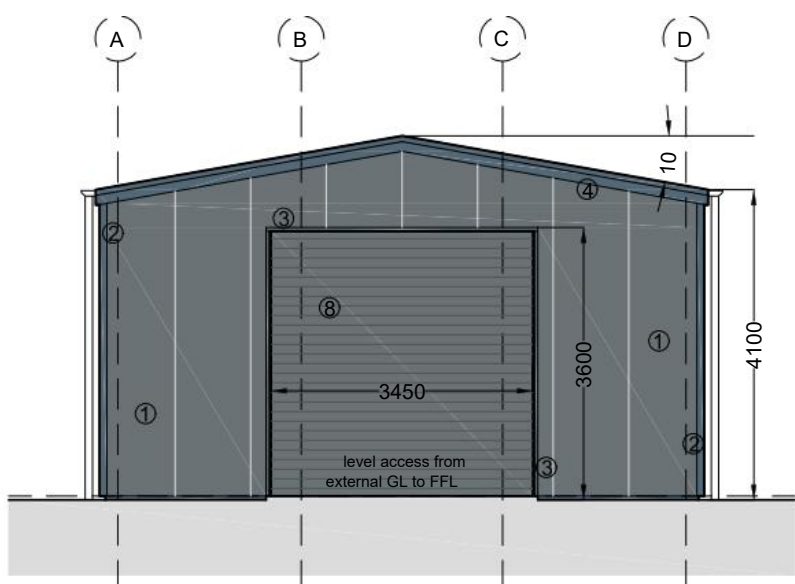
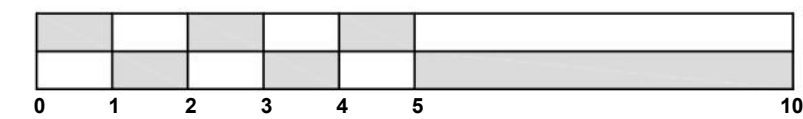
22.5227 100

Drawing Scale: As Shown

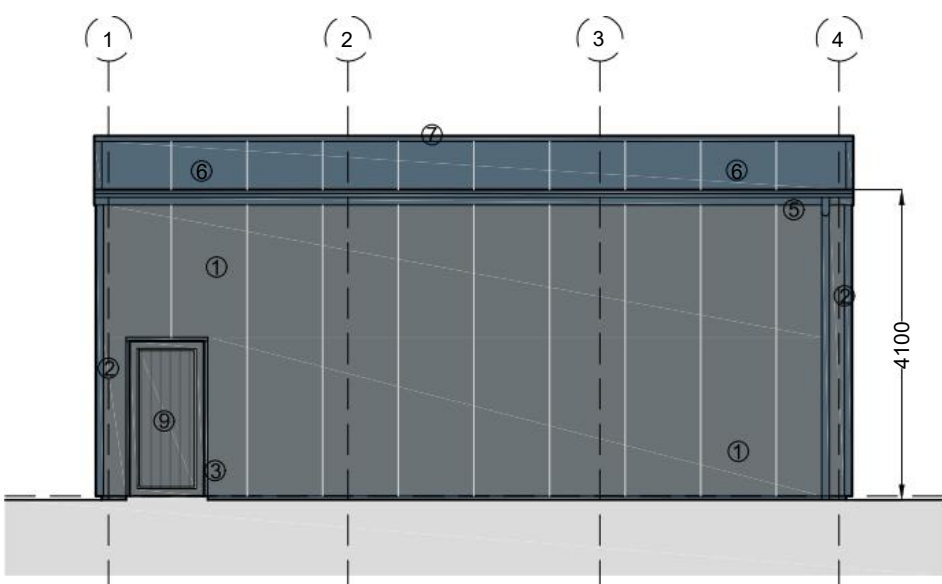
B9040



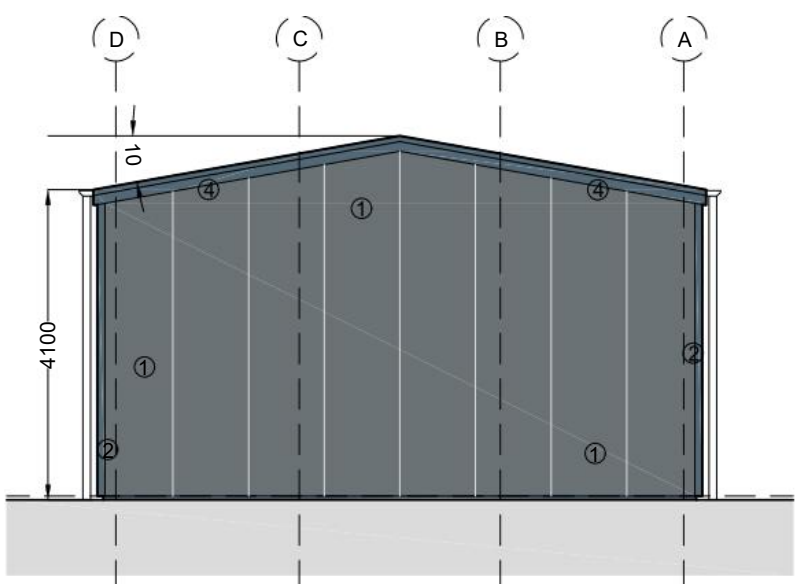
Proposed Side (West) Elevation 1:100



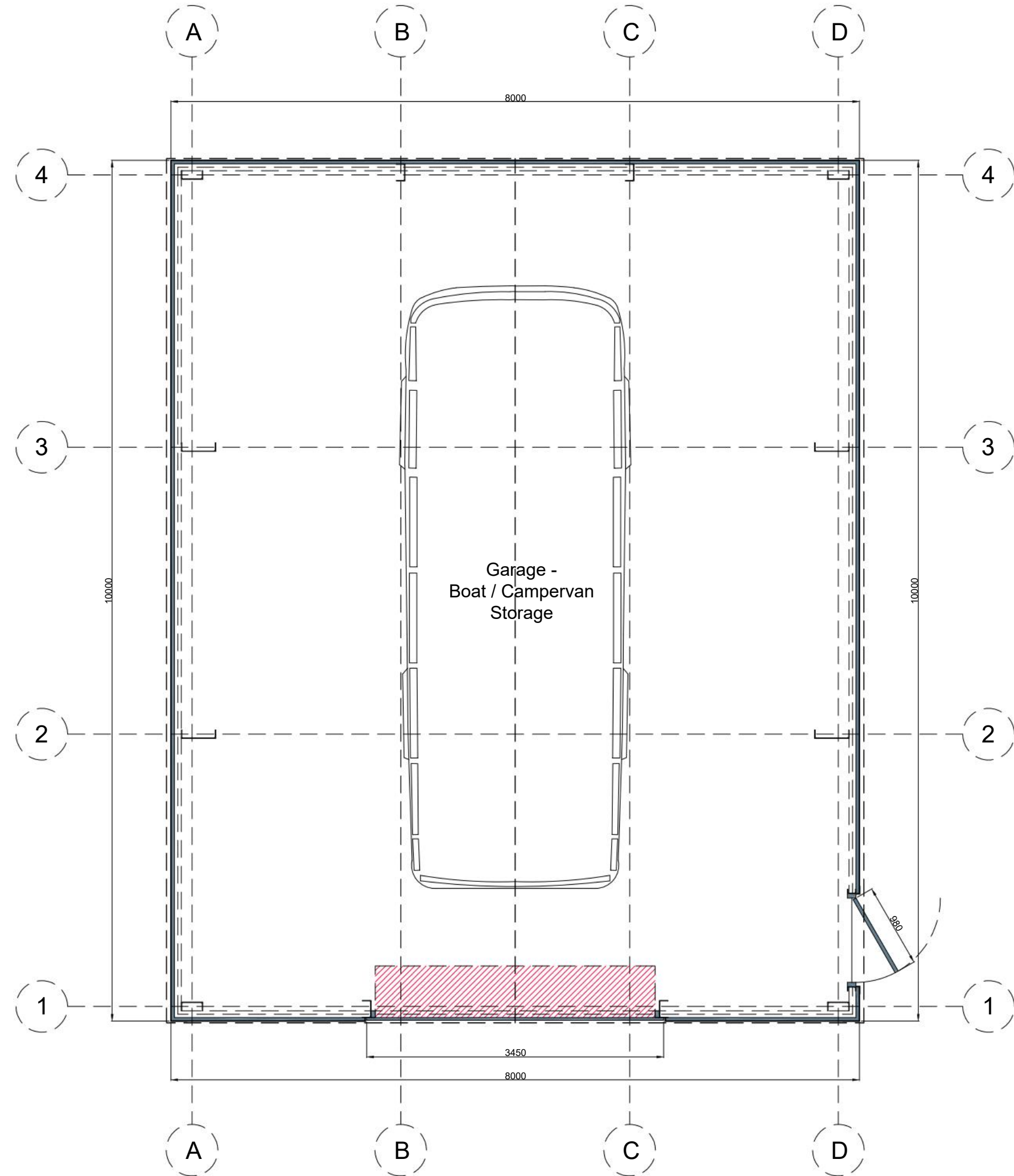
Proposed Front (South) Elevation 1:100



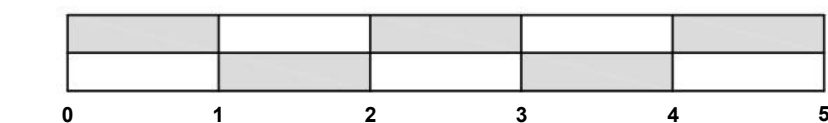
Proposed Side (East) Elevation 1:100



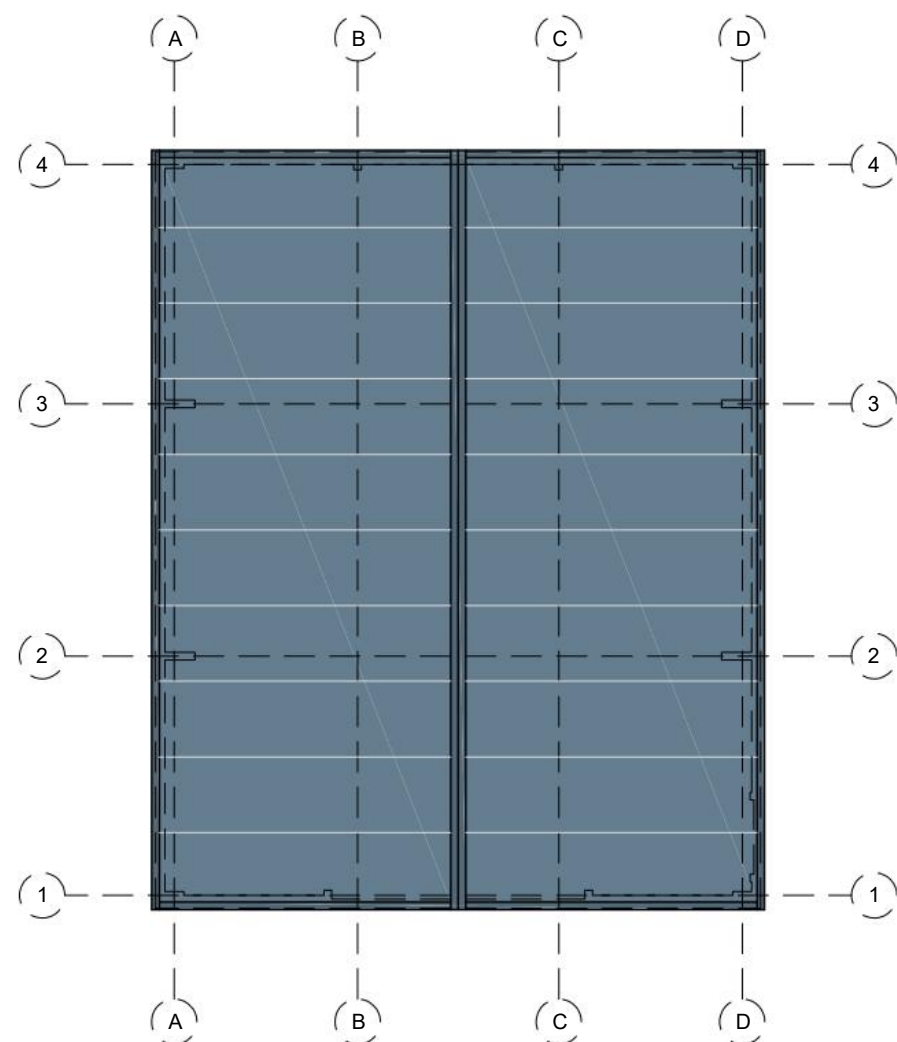
Proposed Rear (North) Elevation 1:100



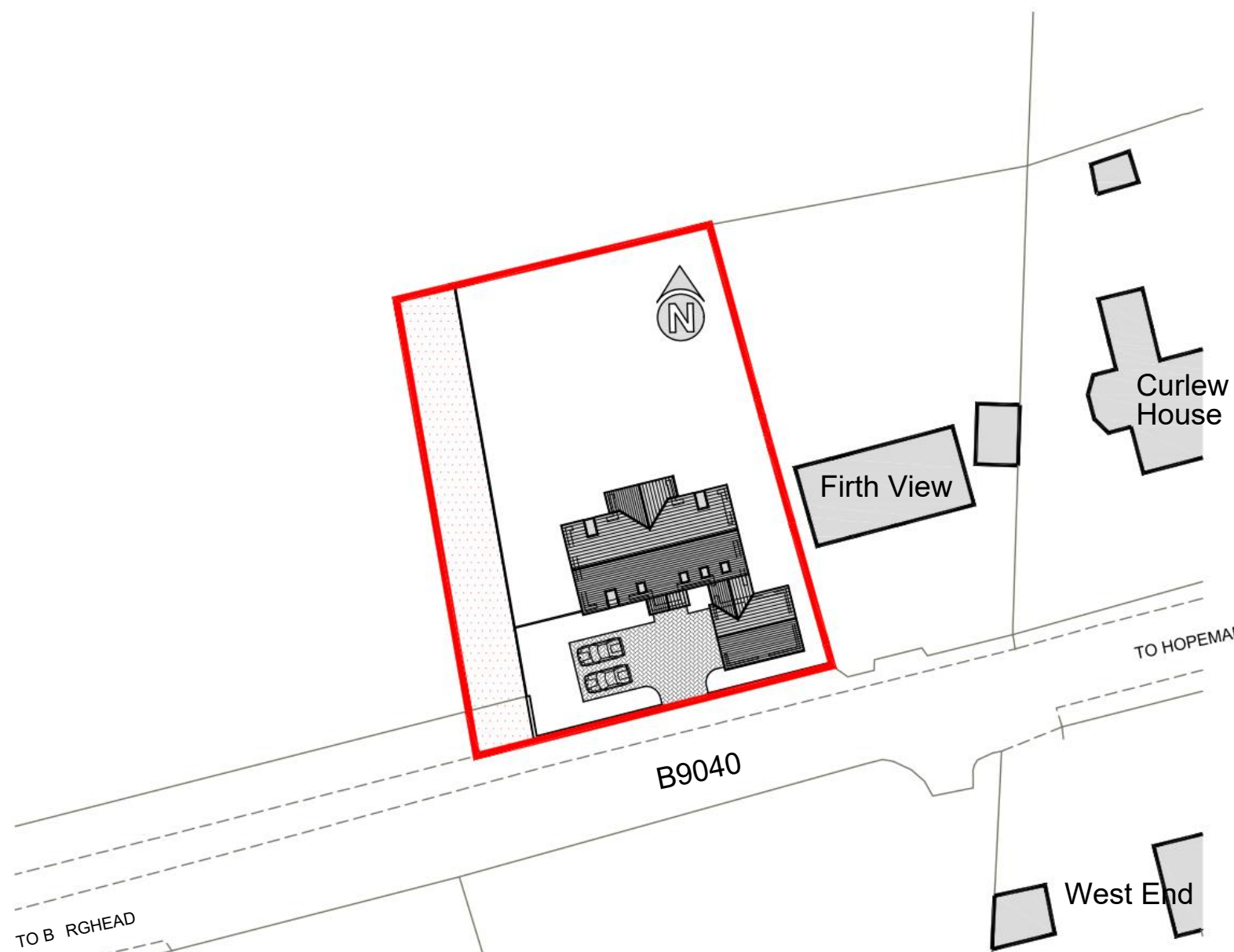
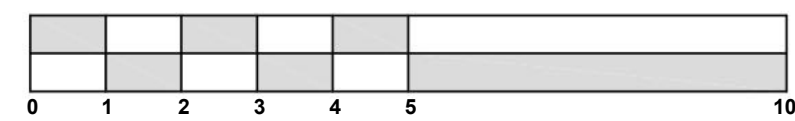
Proposed Garage Floor Plan 1:50



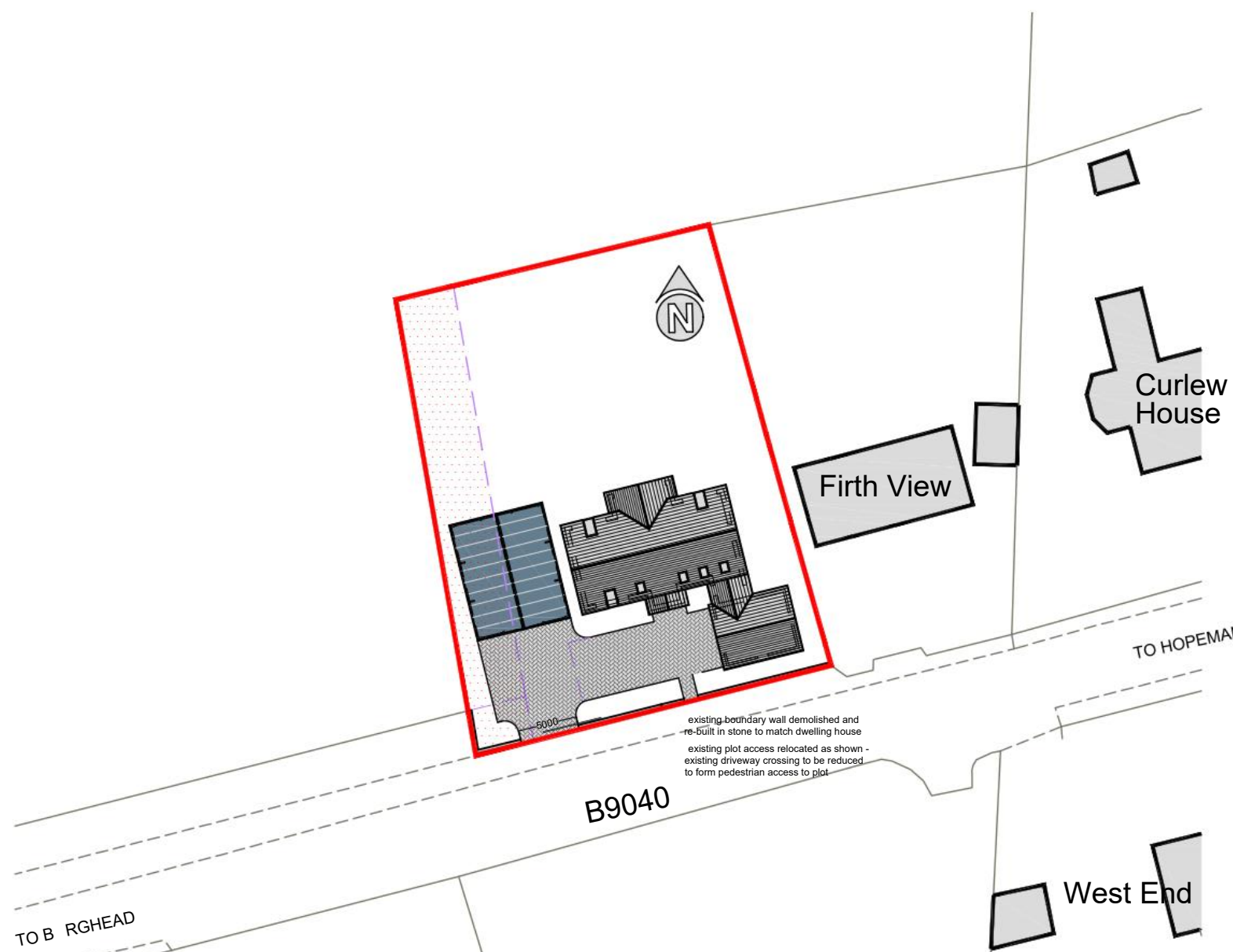
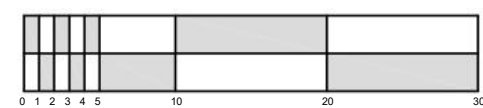
- Proposed Materials**
- Wall Cladding -**
1. 40mm Composite LPC Posco Merlin Grey
 2. Corner Flashings - Posco Slate Blue
 3. Opening Flashings - Posco Slate Blue
 4. Barge Colour - Posco Slate Blue
 5. Gutters - Posco Slate Blue
- Roof Cladding -**
6. 40mm Composite LPC Posco Slate Blue
 7. Ridge Cap - Posco Slate Blue
- Openings -**
8. Roller Door Posco Merlin Grey
 9. Pass Door - Posco Merlin Grey



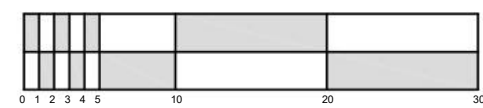
Proposed Roof Plan 1:100



Existing Site Plan 1:500



Proposed Site Plan 1:500



Proposed Streetscape 1:100



Notes

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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions

Date

STAT S

PLANNING APPLICATION

machin dunn + macfarlane
architecture and design

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W : www.mdm-architecture.co.uk

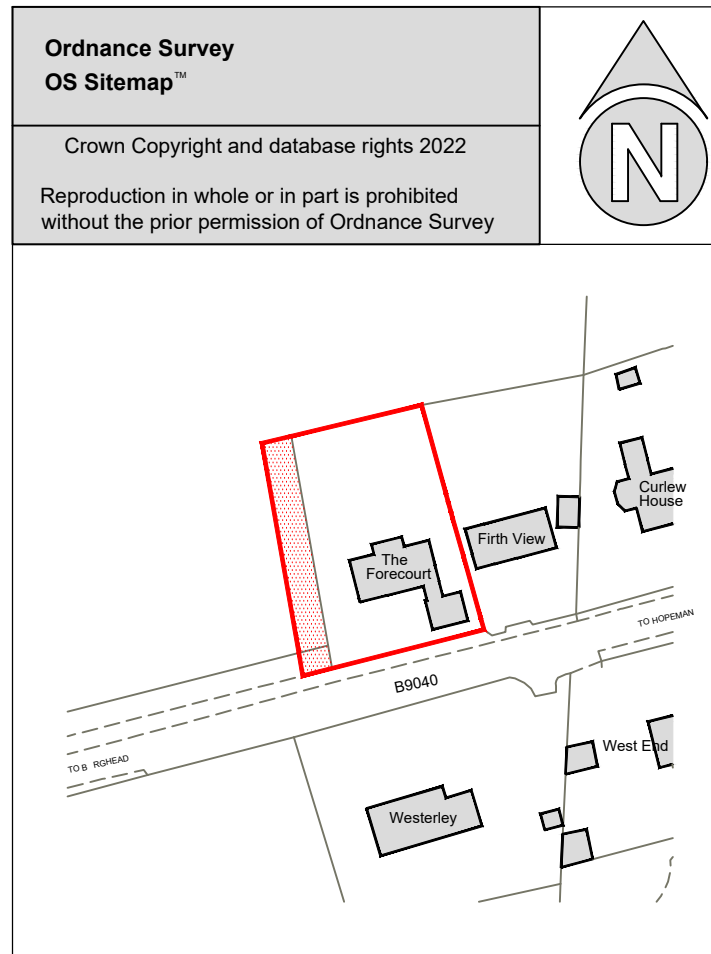
11 Bank Street • Alloa • Clackmannanshire • FK10 1HP

PROJECT
Proposed Erection of Garage/Storage Shed and
Partial Change of Use to Garden Ground at
'The Forecourt', Cummingstown, Lossiemouth

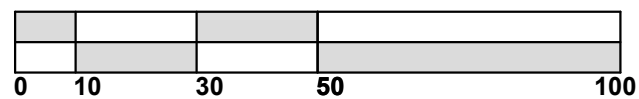
DRAWING TITLE
Proposed Floor Plan, Elevations, Roof and Site Plans

CLIENT
Mr J. Marshall

SCALE As Noted @ A1 DATE 31st October 2022
DRG NO. 2273/P/1.02



Location Plan 1:1250



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Revisions	Date

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PLANNING APPLICATION

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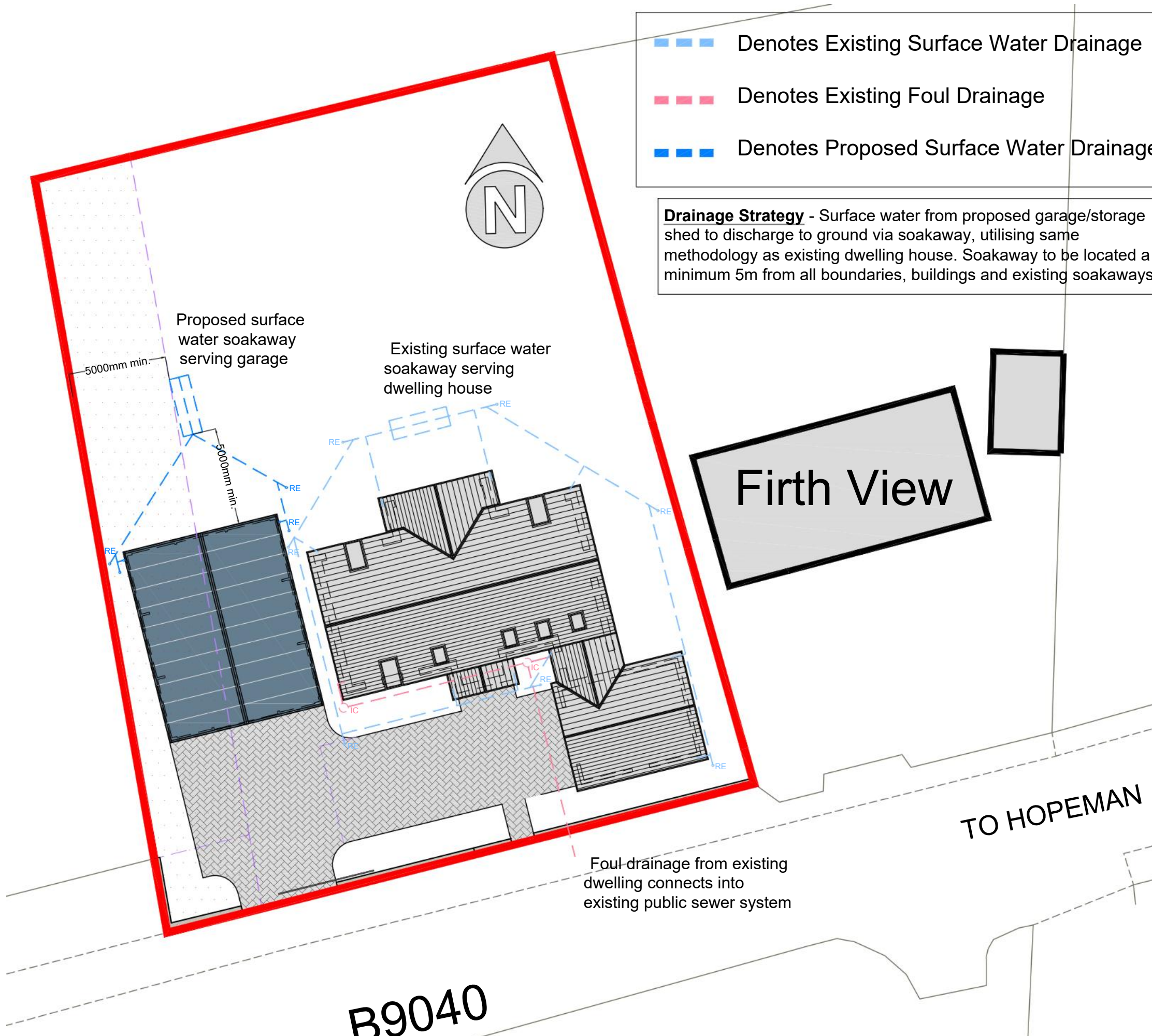
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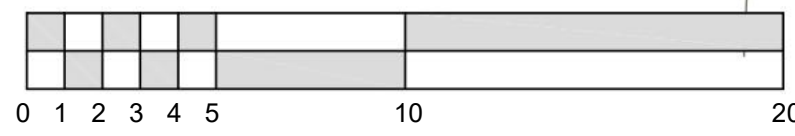
PROJECT <i>Proposed Erection of Garage/Storage Shed and Partial Change of Use to Garden Ground at 'The Forecourt', Cummingstown, Lossiemouth</i>
DRAWING TITLE <i>Location Plan</i>

CLIENT <i>Mr J. Marshall</i>
--

SCALE <i>As Noted @ A4</i>	DATE <i>31st October 2022</i>
DRG NO. <i>2273/P/1.01</i>	



Proposed Drainage Strategy Layout 1:200



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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

STAT S

PLANNING APPLICATION

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PROJECT Proposed Erection of Garage/Storage Shed and Partial Change of Use to Garden Ground at 'The Forecourt', Cummingstown, Lossiemouth	
DRAWING TITLE Proposed Drainage Strategy and Layout	
CLIENT Mr J. Marshall	
SCALE As Noted @ A3	DATE 2nd November 2022
DRG NO. 2273/P/1.03	



PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :

machin dunn + macfarlane
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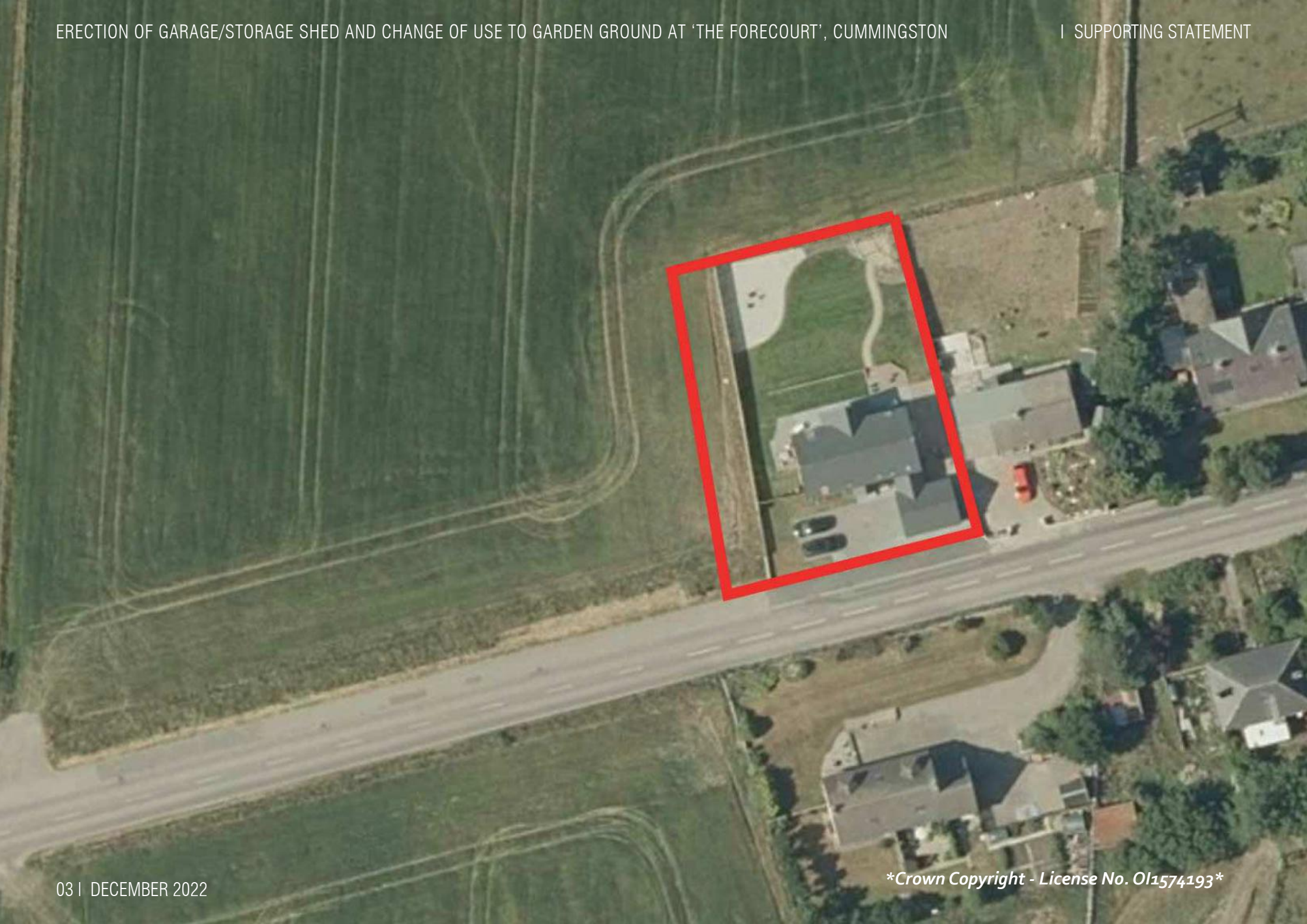
On Behalf of :

Mr John Marshall – Applicant

E : jm@beatsons.co.uk

ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND | SUPPORTING STATEMENT
AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION	
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY	
3.0	DESIGN PROPOSALS	
4.0	CONCLUSION	



1.0 | INTRODUCTION

1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



Image Copyright - Moray Local Development Plan

2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



Western extents of Existing Settlement Boundary



Land Subject to Planning Approval ref: 17/00830/APP

Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- *'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- *'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'*
- *'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'*
- **REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.



Land Subject to Current Application ref: 22/01594/APP



'Notional' Settlement Boundary if Approved

2.3 - Current Application Relative to Settlement Boundary

The are obvious parralels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



3.0 | DESIGN PROPOSALS

3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majority of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

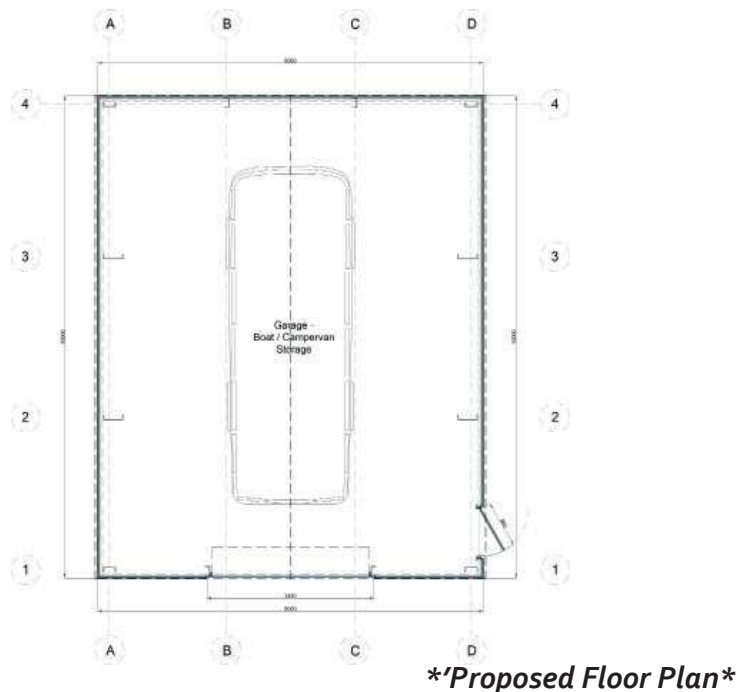
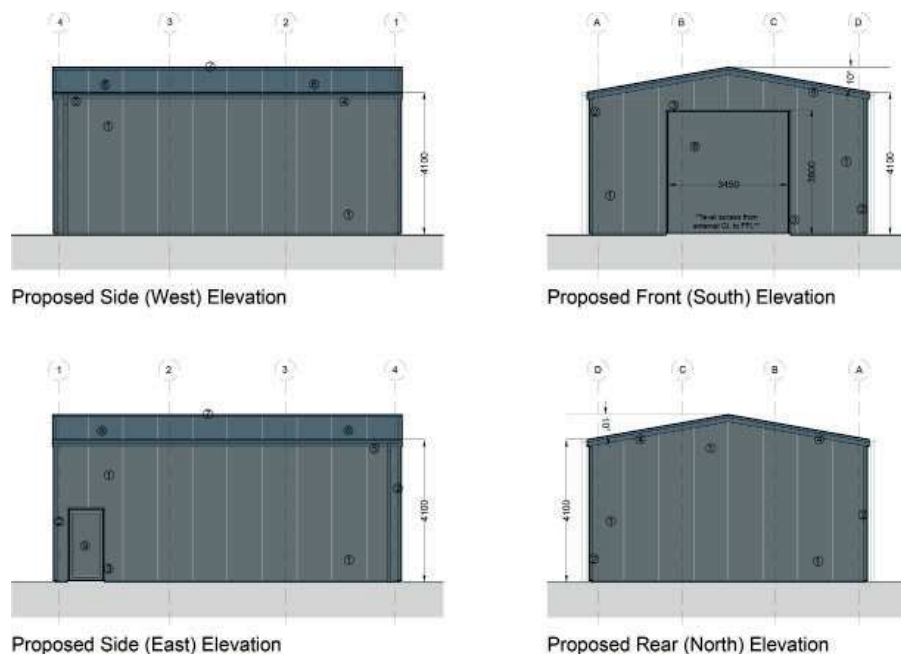
Streetscape and Indication of Ridge Line Relative to Existing Garage

Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



3.2 - Summary of Consultation Responses

Of the two public representations received in relation to the project, the following common themes were noted:

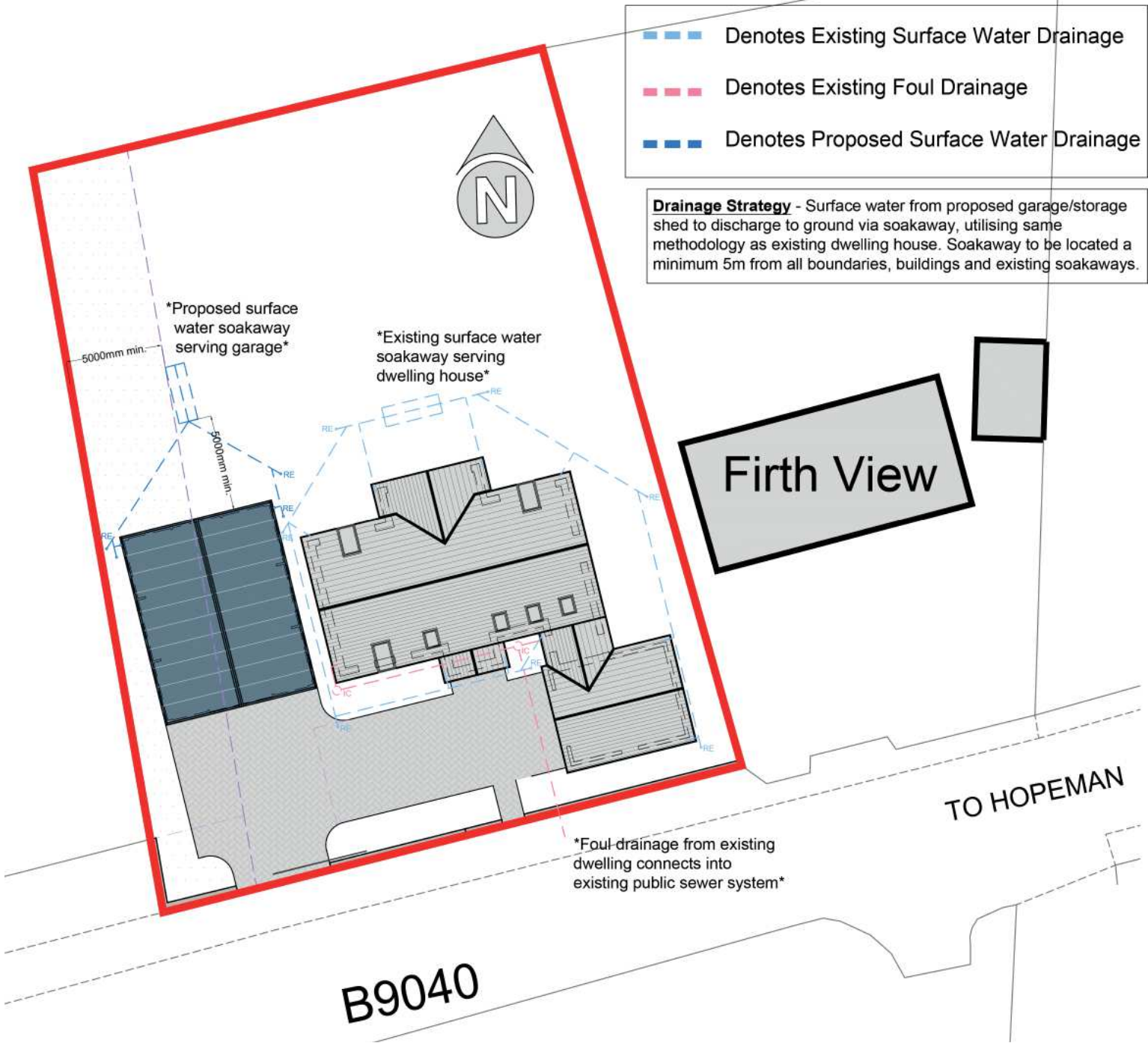
- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - **No objections subject to conditions**
- Environmental Health - **Approved unconditionally**
- Contaminated Land - **Approved unconditionally**
- Flood Risk Management - Object to Application per below:

Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.



4.0 | CONCLUSION

4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.





PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :



T
E
W
: 01259 212962
: enquiries@mdm-architecture.co.uk
: www.mdm-architecture.co.uk

On Behalf of :

Mr John Marshall – Applicant

E : jm@beatsons.co.uk

ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND I SUPPORTING STATEMENT
AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY
3.0	DESIGN PROPOSALS
4.0	CONCLUSION



1.0 | INTRODUCTION

1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



Image Copyright - Moray Local Development Plan

2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



Western extents of Existing Settlement Boundary



Land Subject to Planning Approval ref: 17/00830/APP

Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- 'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'
- 'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'
- 'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'
- REASONS FOR DECISION - 'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'

The Application was subsequently approved with conditions in July 2017.



Land Subject to Current Application ref: 22/01594/APP



'Notional' Settlement Boundary if Approved

2.3 - Current Application Relative to Settlement Boundary

The are obvious parallels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
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Streetscape and Indication of Ridge Line Relative to Existing Garage

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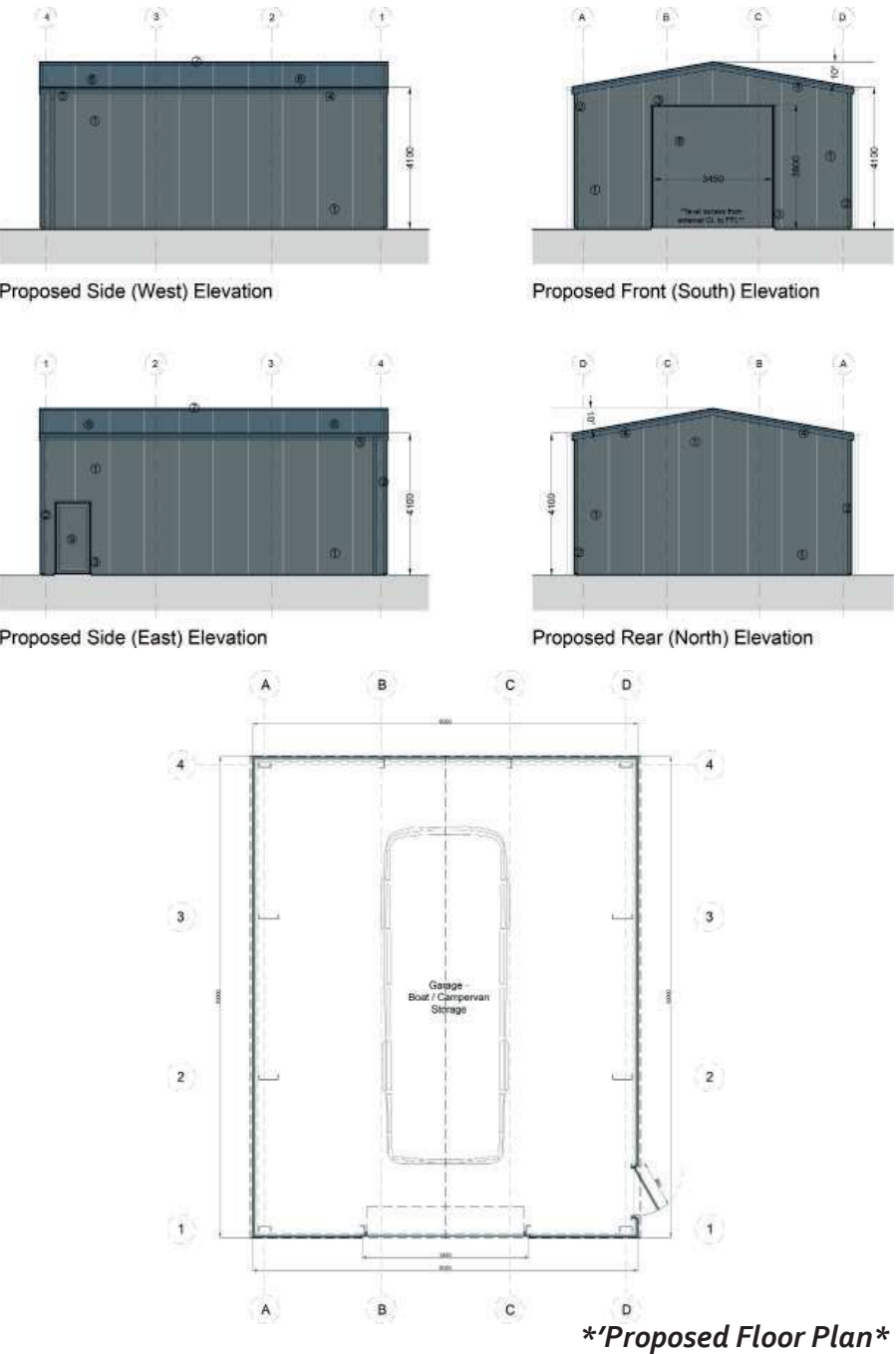
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The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



3.2 - Summary of Consultation Repsonses

Of the two public representations received in relation to the project, the following common themes were noted:

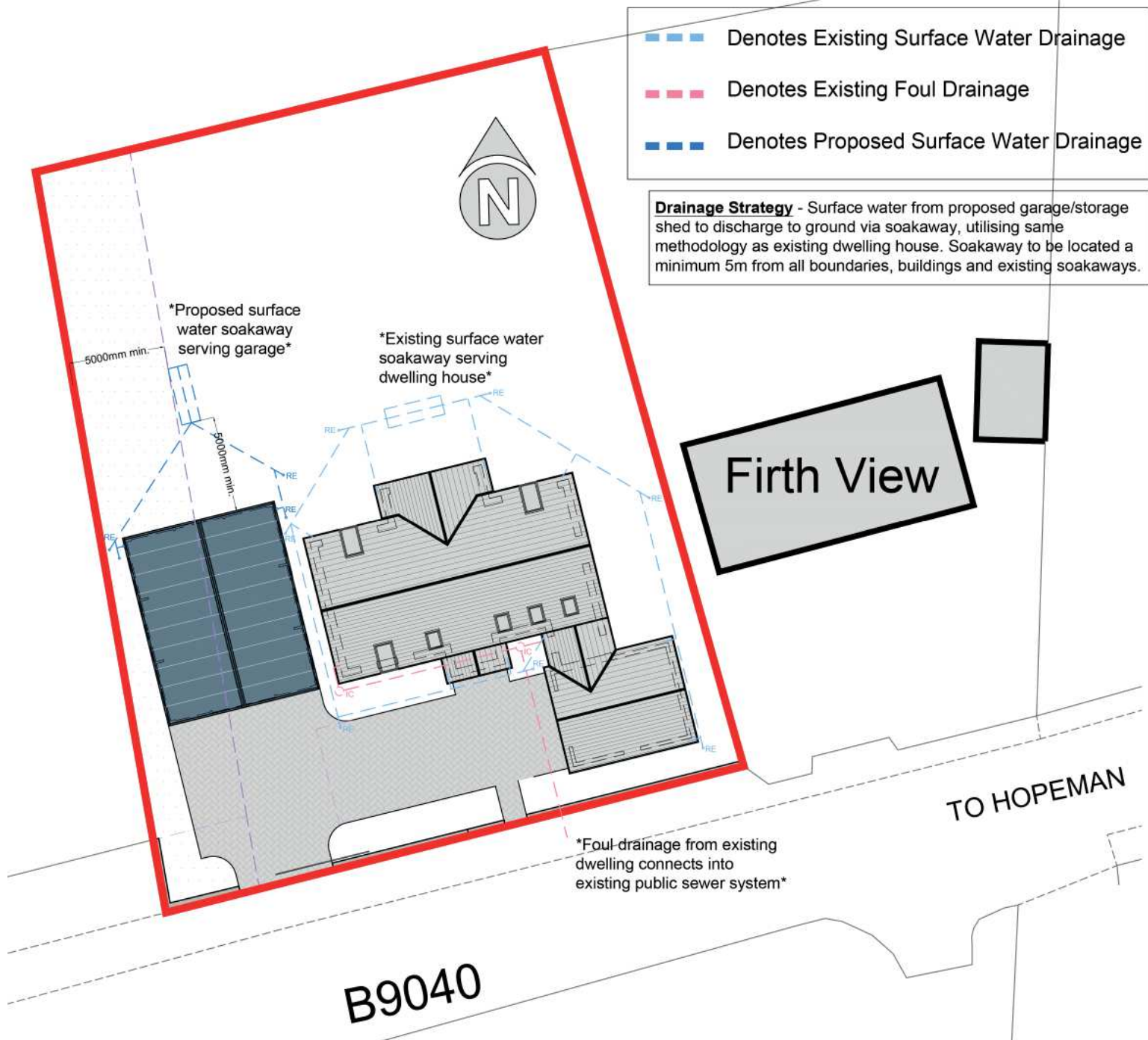
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We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.



Soakaway Design 2

Project Details

Project Title: The Forecourt, Cummingstown

Project Number: 5227

Designer: KD

Global Variables

Impermeable Area :- 117 m²

Soil Infiltration Rate :- 2.03E-5 m/sec

Storm Duration :- 60 minutes

Rainfall :- 0.016 metres

Void Ratio (Trench Soakaway) :- 0.3

Volumetric Runoff Coeff :- 1.00

Trench Soakaway

Length = 5 metres

Width = 0.94 metres

Depth = 0.9 metres

Half empty time = 4.28 hours

Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

* Ring soakaways are deemed to have failed if their Depth is greater than 4 metres.

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- <https://scottishepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>

Consultee Comments for Planning Application 22/01594/APP

Application Summary

Application Number: 22/01594/APP

Address: The Forecourt Cummington Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

Consultee Details

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

Comments

Approved unconditionally by Adrian Muscutt (09.11.2022)

Consultee Comments for Planning Application 22/01594/APP

Application Summary

Application Number: 22/01594/APP

Address: The Forecourt Cummington Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

Consultee Details

Name: Mr EH Consultations

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

Email: Not Available

On Behalf Of: Environmental Health C12

Comments

Approved unconditionally by James Harris (22.11.2022)

**22/01594/APP MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No:
22/01594/APP

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

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

Reason(s) for objection

Conditions(s)

Further comments(s) to be passed to applicant

Further information required to consider the application

Contact: Natalie Dunton

Date: 12/01/2023

email address: Natalie.dunton@moray.gov.uk

Phone No

Consultee: The Moray Council, Flood Risk Management

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	22nd November 2022
Planning Authority Reference	22/01594/APP
Nature of Proposal (Description)	Change of use to garden ground and erect a garage/storage shed at
Site	The Forecourt Cunnington Elgin Moray IV30 5XY
Site Postcode	N/A
Site Gazetteer UPRN	0001330677
Proposal Location Easting	3127
Proposal Location Northing	6
Area of application site (M²)	1
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RKNQ5GBGJFF00
Previous Application	17/00/APP 16/00/APP
Date of Consultation	th November 2022
Is this a re-consultation of an existing application?	No
Applicant Name	Mr John Marshall
Applicant Organisation Name	
Applicant Address	The Forecourt Cunnington Elgin Moray IV30 5XY
Agent Name	Machin Dunn + MacFarlane
Agent Organisation Name	
Agent Address	11 Bank Street Alloa FK10 1HP
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Sheila Bernard
Case Officer Phone number	
Case Officer email address	sheila.bernard@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.

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

For full terms please visit <http://www.moray.gov.uk/moray-standard/page121513.html>

For full Data Protection policy, information and rights please see <http://www.moray.gov.uk/moray-standard/page11959.html>

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

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 22/01594/APP

Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray for Mr John Marshall

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

Please

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

This proposal is for an extension to the existing site and erection of a new storage shed, including the relocation of the existing vehicular access. The proposal also includes works to the existing boundary wall fronting onto the public road. The following conditions would apply:

Condition(s)

1. Prior to the completion or first occupation of the new garage/ storage shed whichever the sooner, the existing vehicular access shall be relocated to the location shown on submitted drawing "2273/ p/1.02". The width of the new vehicular access shall be 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Drop kerbs shall be provided across the access to the Moray Council specification. The existing vehicular access shall be reconfigured including the reinstatement to full height kerbs and provision of drop kerbs to the Moray Council specification to provide a pedestrian access only

Reason: To ensure acceptable infrastructure at the development access

2. Three existing car parking spaces shall be retained within the site throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

3. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access

4. A turning area shall be retained within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

5. New boundary walls/fences shall be set back to the rear of the existing footway.

Reason: To ensure acceptable development in the interests of road safety.

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.9m in height and fronting onto the B9040 Main Road shall be within 3.0m of the edge of the public carriageway

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

7. The opening path of any new access gate shall be fully contained within the site and not encroach onto the public footway.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

Further comment(s) to be passed to applicant

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing roadspermits@moray.gov.uk

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer. A large utility chamber is located in close proximity to the new access (with dropped kerbs positioned to accommodate the chamber access). Note - the drop kerbs would require to be reinstated to full height kerbs where outwith the new access in the unlikely event of the chamber being relocated.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into their property.

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

Contact: AG

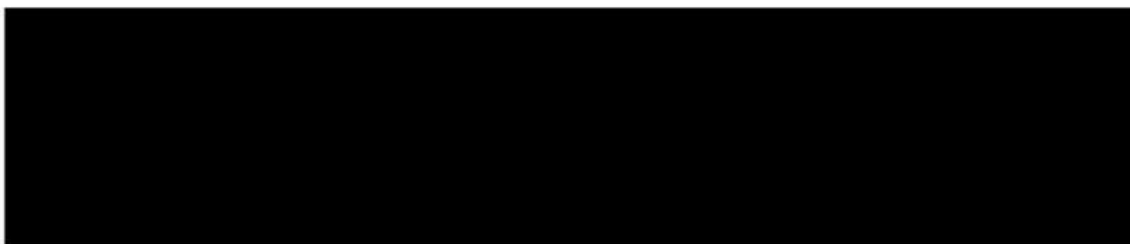
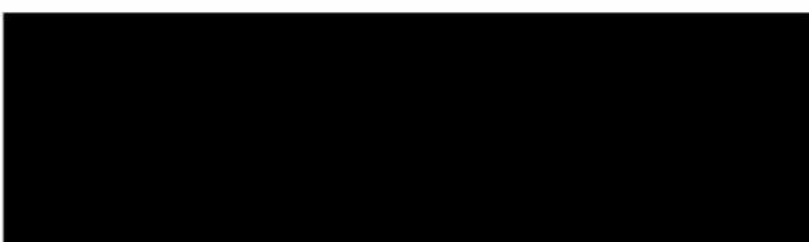
Date 11 November 2022

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

Consultee: TRANSPORTATION

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



Sent: 13 November 2022 20:57
To: Planning-Objections <objection.planning@moray.gov.uk>
Subject: Application Number 22/01594/APP

Warning. This email contains web links and originates from outside of the Moray Council network. You should only click on these links if you are certain that the email is genuine and the content is safe.

FAO: the DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER.

1. I wish to object to this planning application – Change of use to garden ground and erect a garage /storage shed at the Forecourt, Cummingston, Elgin.
2. Reason for objection – Contrary to the development Plan. The Moray Council's Development Strategy/Placemaking Objectives for Cummingston states:

"Restrict growth to prevent coalescence with Hopeman and Burghead. ***Linear extension along the B9040 is not supported.***"

Whilst I have no objection to someone wishing to build a garage for their motorhome etc... I am concerned that Moray Council would allow building in areas contrary to the development plan.

3. Reference: MLDP 2020 Vol 2: Settlement Statements
http://www.moray.gov.uk/moray_standard/page_133541.html
<http://www.moray.gov.uk/downloads/file133235.pdf>

Yours sincerely,



Sent from [Mail](#) for Windows

Comments for Planning Application 22/01594/APP

Application Summary

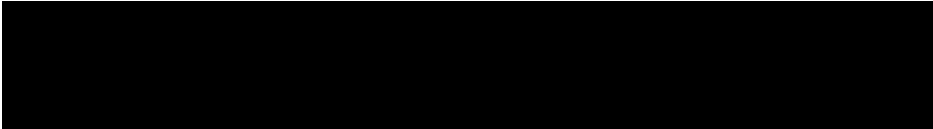
Application Number: 22/01594/APP

Address: The Forecourt Cummingston Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Height of proposed development
- Lack of landscaping
- Over-development of site

Comment: This is a large industrial/agricultural style of outbuilding on the road front and approach to the village.

It creates linear expansion of village outwith Local Plan, and is out of character with the existing structures along the main street of Cummingston.

There is ample scope to position this building to rear of property, which would also lower the impact of building as the ground is lower.

REPORT OF HANDLING

Ref No:	22/01594/APP	Officer:	Lisa Macdonald
Proposal Description/ Address	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray		
Date:	17.01.2023	Typist Initials:	LMC

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	11/11/22	No objection
Environmental Health Manager	22/11/22	No objection
Transportation Manager	11/11/22	No objection subject to conditions to ensure that the relocated access is formed to an acceptable standard, adequate parking and turning is provided within the site, boundary treatments do not block visibility and the opening path of any new gate is contained within the site.
Moray Flood Risk Management	13/01/23	No objection following the submission of further information

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP4 Countryside Around Towns	N	
EP6 Settlement Boundaries	Y	See below
EP12 Management and Enhancement Water	N	
NPF4 policy 1		
NPF4 policy 2		
NPF4 policy 4		
NPF4 policy 9		

NPF4 policy 13		
NPF4 policy 14		
NPF4 policy 16		
NPF4 policy 22		

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received: TWO		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
<p>Issue: The development is a linear expansion beyond the village boundary as identified in the Local Plan and the Local Plan expressly states that linear extension along the B9040 is not supported.</p> <p>Comments (PO): This concern is noted and forms part of the reason for refusal as detailed below.</p>		
<p>Issue: The style of building is not in keeping with the rest of the village and is inappropriate at the entrance to the village.</p> <p>Comments (PO): The building has been designed in a simple and functional style. It is a large structure but the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.</p>		
<p>Issue: There is space at the rear of the house to accommodate such a development.</p> <p>Comments (PO): The application must be assessed as presented. The agent highlights in the supporting statement that the possibility of moving the building was discussed during the course of the application but this is not acceptable to the applicant as it would take up a large portion of the existing garden.</p>		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Following consideration of the revised draft National Planning Framework 4 (NPF4) which was approved by Parliament on 11 January 2023, NPF4 is now a material consideration and will be given significant weight in the consideration of planning applications on a case by case basis. NPF4 is due to be adopted on 13 February 2023.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Morar Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

The Proposal

This application seeks permission for change of use of a 5m wide strip of farm land to garden ground

in order to site a domestic garage/storage building. Half the proposed building will be sited on the land that is the subject of the change of use while the rest is within the existing garden ground of the house.

The Site

The building is to be sited to the west of the existing house which fronts the main road (B9040) through Cummingston. The house is the westernmost house in Cummingston on the north side of the road. There is an existing garage in the eastern part of the site which sits between the house and the road. The settlement boundary of Cummingston as identified in the Moray LDP follows the current boundary of the house. The land to the west which the application seeks to incorporate into the garden ground of the subject property is currently farm land. At present there is a clear boundary between the farmland and garden which is currently delineated by a fence and wall. The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

Siting (EP6 & Cummingston Settlement Text)

Policy EP6 states that proposals immediately outwith the boundaries of settlements will not be acceptable unless part of a LONG designation. The Settlement text for Cummingston goes beyond this stating explicitly that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that linear extension along the B9040 is not supported. The current proposal seeks to incorporate a 5m wide strip of farm land into an existing garden in order to site the building proposed. This would be a linear extension along the B9040 and encroachment onto land immediately outwith the settlement boundary. The proposed expansion of the settlement to the west by 5m is relatively small scale but incremental increases of this kind have the potential to gradually erode the character of a settlement. At present the western boundary of the village is clearly defined and well delineated. The expansion of the existing garden to site the proposed building would be an extension of the build area of Cummingston that does not respect the established pattern of development and erodes the distinction between Cummingston and Burghead which is to the west. The proposal is clearly at odds with the stated aims of the settlement text for Cummingston which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. The siting of this development is contrary to policy and it is therefore refused.

Design, Materials and Impact on the Special Landscape Area (SLA) (DP1 & EP3)

Policy EP3 requires development within defined settlements in a SLA to conform to the requirements of Settlement Statements and all other policies of the LDP and reflect the traditional settlement character in relation to siting and design. In this case the proposal is a clear departure from the clearly stated aim in the settlement statement to prevent linear development along the B9040 and further coalescence with Burghead to the west. This application would be a breach of the established boundaries of the village and result in additional built development along the roadside. A building of the scale proposed would be prominent in this location on the very edge of the settlement. The development does not reflect the traditional settlement pattern and as such is contrary to policy EP3.

Policy DP1 (i) (a) requires development to be of a scale that is appropriate to the character of the area and as noted above policy EP3 requires development within defined settlements to reflect the character of that settlement. The proposed building is large measuring 10m x 10m and 5 m to the ridge. It is noted that it would be lower than the existing house and in line with the existing garage. It has been designed in a simple style with a symmetrically pitched roof and a large roller door on the front (south) elevation. The proposed materials are grey metal cladding on the walls and slate blue metal sheeting on the roof. The design is typical of many outbuildings found in rural areas albeit large in a domestic setting. While the design and materials are of a type that could be accommodated in a less sensitive location a building of this size would be prominent in this location on the very edge of the village breaching the settlement boundary. Furthermore it would be at odds with the aims of the settlement statement which seeks to prevent further linear development along the B9040 and Policies DP1 and EP3 which requires development to conform with traditional

settlement character in terms of siting and design. The proposal is contrary to policy DP1 (i) (a) and policy EP3.

Precedent

It is noted that the Supporting Statement highlights the planning history of this site and suggests that this would set a precedent for the current proposal. The statement (p.5) states that part of the existing curtilage is technically outwith the settlement boundary and that the house was approved as an acceptable departure. This is not the case as the house was assessed (16/00□□1/APP refers) as being in accordance with policy as it was contained within the settlement and the mapping associated with the LDP shows the settlement boundary follows that of the existing garden ground. A further application (17/00□30/APP) was approved to increase the boundaries of the property to the north to incorporate farm land into garden ground. This was a departure from policy as it extended the boundaries of the property outwith the settlement boundary and encroached on the Coastal Protection Zone which was in force at the time. In approving that proposal as an acceptable departure the case officer noted that the expansion was logical as it brought the northern boundary of the property in line with that of the neighbouring property to the east and did not prejudice the aims or objectives of the settlement boundary policy or coastal protection zone policy. The case officer also noted that no built development was proposed as part of that application. The circumstances which made the previous case an acceptable departure do not apply in this instance. Restricting the linear expansion of the village along the road is an express aim of the LDP and this proposal deviates from that as it would result in additional built development along the road on land that is not currently part of the village. While planning history is a material consideration each application must be considered on its own merits. In this case cognisance of the planning history does not alter the assessment that the proposal is contrary to policy and should be refused.

Access and Parking (DP1)

The application seeks to form a new vehicular access in the western part of the site and the existing access will be converted to a pedestrian access only. An area is identified within the site for turning and parking. The Transportation Section has no objection subject to conditions requiring the existing access to be blocked off prior to completion or first use of the building, the new access to be formed to an acceptable standard and to ensure boundary treatments don't obscure visibility or encroach on the footway. Transportation also recommend conditions in relation to parking and turning. The recommended conditions would ensure safe entry and exit to the site and adequate parking and turning as required by policy DP1 (ii) (a) and (e).

Drainage (EP12)

A surface water soakaway is proposed to serve the garage. Additional calculations have been provided to support this element of the scheme. Following the receipt of the further information MFRM have confirmed that they have no objection. The timely provision of the Suds measures could be controlled by condition. The proposals would ensure that the surface water from the development was dealt with in a sustainable manner in accordance with policy EP12.

National Planning Framework 4

NPF4 is now a significant material consideration in the determination of planning applications. The relevant provisions of NPF4 are not considered to change the evaluation of the proposal as outlined above, noting that there are a limited number of policies relevant to this proposal in NPF4 namely policies 1, 2, 4, 9, 13, 14, 16 □ 22

Recommendation

This application proposes the change of use of farm land to garden ground in order to accommodate a large building on the western edge of Cummingston. The proposal is clearly at odds with the stated aims of the settlement text for Cummingston which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. A building of this scale in a prominent road side location

such as this is not in keeping with the character of this part of Cummingston and is contrary to policies DP1 (i) (a) and policy EP3. The siting of this development is contrary to policy and it is therefore refused.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
17/00□30/APP	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray			
	Decision	Permitted	Date Of Decision	31/07/17
16/00□□1/APP	Demolish building and erect 2 storey dwellinghouse with integral garage and associated works at Old Filling Station Cummingston Elgin Moray IV30 5XY			
	Decision	Permitted	Date Of Decision	20/07/16

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/01/23	
PINS	Departure from development plan	09/01/23	

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *

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

Supporting information submitted with application□	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Explanation of the proposal.	
	Justification for departure from policy including precedent of previous permission.	
Document Name:	Drainage Statement	
Main Issues:	Calculations to support the proposed soakaway.	

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
Summary of terms of agreement:		

Location where terms or summary of terms can be inspected:

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR200 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



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

REFUSAL OF PLANNING PERMISSION

**[Heldon And Laich]
Application for Planning Permission**

TO



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

Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray

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

Date of Notice: **19 January 2023**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
100		Proposed SW drainage layout and details
2273/P/1.02		Elevations and floor plans
2273/P/1.01		Location plan
2273/P/1.03		Proposed drainage strategy and layout

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

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

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 100605113-006

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Machin Dunn + MacFarlane

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Neil

Building Name:

Last Name: *

MacFarlane

Building Number:

11

Telephone Number: *

01259 212962

Address 1
(Street): *

Bank Street

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Alloa

Fax Number:

Country: *

Scotland

Postcode: *

FK10 1HP

Email Address: *

neil@mdm-architecture.co.uk

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<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="The Forecourt"/>
First Name: *	<input type="text" value="John"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Marshall"/>	Address 1 (Street): * <input type="text" value="Cummington"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="IV30 5XY"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="jm@beatsons.co.uk"/>	

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="THE FORECOURT"/>
Address 2:	<input type="text" value="CUMMINGSTON"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ELGIN"/>
Post Code:	<input type="text" value="IV30 5XY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="868851"/>	Easting	<input type="text" value="312787"/>
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Description of Proposal

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

Proposed Erection of Garage/Storage Shed and Partial Change of Use from Farm Land to Garden Ground

Type of Application

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

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

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

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

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

Please refer to 'Planning Statement in Support of Local Review of Refusal of Planning Application' for full details.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

'Planning Statement in Support of Local Review of Refusal of Planning Application 22/01594/APP; Drawing no's 2273/P/1.01, 2273/P/1.02, 2273/P/1.03, 22.5227 100; Soakaway Sizing Calculations; Supporting Statement dated December 2022 in support of Application; Planning Decision Notice relative to Application reference 22/01594/APP and Planning Officers 'Report of Handling' relative to Application reference 22/01594/APP.

Application Details

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

22/01594/APP

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

31/10/2022

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

19/01/2023

Review Procedure

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

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

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

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Neil MacFarlane

Declaration Date: 10/03/2023

Application to review refusal of planning permission 22/01594/APP – Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingsston Elgin Moray

This statement is lodged in support of our request for review of the decision to refuse planning permission 22/01594/APP in relation to our proposal for change of use to garden ground and erect a garage/storage shed at The Forecourt, Cummingsston, Elgin, Moray.

The planning application was refused permission on 19th January 2023, with two reasons for refusal. We will address these reasons and forward our own contention, that planning permission *ought* to be granted.

Reason 1 was as follows:- *“The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingsston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.”*

In reviewing Policy EP6, the Council’s justification/notes states understandably, that it wishes to guide development to the “towns, villages and rural groupings, preventing ribbon development and maintaining a clear distinction between the built up area and the countryside.” The policy itself states that development proposals “outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated “LONG” term development site....”

We can understand and support the concept of avoiding linear roadside development and increasing the potential for coalescence. However, our proposal relates to the development of an *existing* property. It is not disputed that to make our proposals work, then there is a modest incursion beyond the existing boundary, which in real terms extend westwards no greater than the established development of the village on the southern side of the B9040. It would not extend Cummingsston any nearer to Burghead than the westernmost point of the village as it presently exists. Our proposal does not seek to “grow” the village, rather it seeks to consolidate the existing residential development. Approving this modest domestic extension would not impinge on the policy of maintaining a clear distinction between the built up area and the countryside beyond. Moreover, it is not unreasonable to contend that our proposal does not coalesce the settlement of Cummingsston with Burghead. We believe that as the proposal seeks to enhance an existing residential property, there is no greater potential for coalescence either. Were a new residential property being proposed then we could appreciate the Council’s reservations. That is not the case with our proposal.

Turning to the Cummingsston Settlement Text, the Development Strategy/Placemaking Objectives has the following bullet points-

- *Restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.* Our proposal does not threaten that objective, given that it is consolidating an existing residential development. We do not seek to “grow” the village. The proposal is a domestic type extension where the key issue is that to facilitate our proposal we seek to incorporate a strip of countryside. Our domestic proposal does not threaten to undermine the objective of maintaining separation of Burghead and Cummingsston.
- *To preserve existing linear form and character of the village.* Our proposals do not seek to undermine that objective either. The character of the village would not be impacted by our proposal and it can conceivably be seen as reinforcing the

linear form, since the proposed structure would largely align itself in position with the dwelling house on site.

- Cummingston is described as characterised by its linear street pattern with a strong building line onto the road edge, with simple forms and traditional proportions characteristic of the village. In the Report of Handling, our proposal is described as “a large structure” but one where “the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.” By developing in this location, albeit we have to look to modestly extend to the west, we are seeking to reinforce the character of the village. The Report of Handling acknowledges the house is significantly higher than our proposal. We will address the height element in more detail in response to Reason 2 of the refusal.
- *Development proposals in the Special Landscape Area must reflect the traditional settlement character in terms of siting and design and respect the qualities of the designation.* In response, our proposal does reflect the character in terms of its siting. Whereas there remains discussion over the height of our proposal, we would again refer to the Report of Handling and the description of our proposal as being not untypical of garages and outbuildings in rural areas.

Reason 2 was as follows:- *“The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (1)(a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.”*

Policy DP (1)(a) requires *“the scale, density and character”* to *“be appropriate to the surrounding area and create a sense of place...and support the principles of a walkable neighbourhood.”* Our proposal is for an ancillary building to be erected in association with the existing building form on this residential site. The scale of our proposal is quite specifically *lower* than the house to which it relates. It has been deliberately sited in close proximity to the dwelling house, thereby creating a tight knit urban form, maintaining the openness in the rear garden which is a characteristic of many of the properties in Cummingston. We are therefore reinforcing the characteristics to be found within the village. It is appreciated that this is a taller than usual garage structure, however we have sought in design terms to minimise its height such that the dwelling house remains the key building of focus yet ensuring the structure can properly function for its intended use. We would argue that the siting is in accord with the settlement character, with the design (and materials) chosen to reflect that this is a taller structure than a standard single garage. Were we to adopt an alternative approach, brick or render finish for instance, arguably this would give a greater appearance of bulk to the building than what we have sought to do. The location is prominent, which is why the building has been sited in alignment with the dwelling house, which would remain the key building on the site were this review to be upheld.

Policy EP3 (1) relates to Special Landscape Areas (SLA's) and Landscape Character. It states *“Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area.....”* Our proposal fundamentally does not seek to undermine the principle of this policy. It is doubtful that our proposal could do that, since it is sited and designed in such a way as to be seen in context with

the existing larger structure that is the dwelling house on this site. It is an ancillary building, where the external execution has been chosen to seek to mitigate its relative scale. As outlined above the siting has been chosen to *reflect* the traditional settlement character and if anything seeks to consolidate the linear development of the village. The design has been chosen to accommodate the needs of the proposal yet reflect a country style characteristic in its external appearance.

Conclusion

In conclusion, we have sought to bring forward a proposal, which, while acknowledging the modest extension westward of the existing boundary line of the village, seeks to harmonize this with the western most extent of development on the southern side of the road at this location in the village. The proposal is not intended to undermine the policy objectives relating to coalescence and we are confident that it doesn't. This is not a proposal for a new build property, where concerns regarding potential for coalescence could be understood. This proposal, very clearly, is for an ancillary building to serve the existing dwelling house on site.

Our proposal seeks to reinforce the linear characteristics of the village and while it is accepted that our proposal is not a typical single garage, that was never its intention. Instead we've sought to craft the proposal in a manner which reflects similar buildings to be found in the countryside, yet keeping its scale to a degree such that the dwelling house on the site would remain the principal feature should the appeal be upheld and the building permitted.

It is respectfully requested that the Council reconsider the original decision to refuse the planning application, and instead grant planning permission for our proposal.

Note - Sub-soil PercolationTesting Carried Out By Others (Refer Cameron & Ross Report 26.10.16) In Accordance With BS6297:1993 Confirmed An Average Sub-soil Percolation Value (Vp) of 16.4 secs/mm

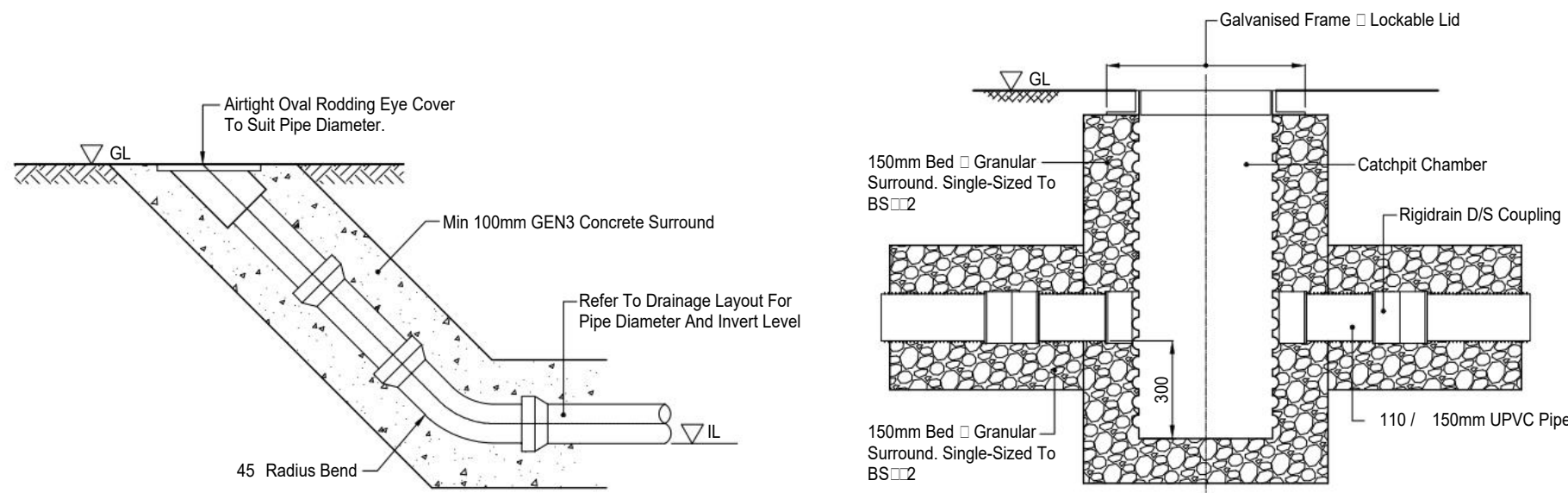
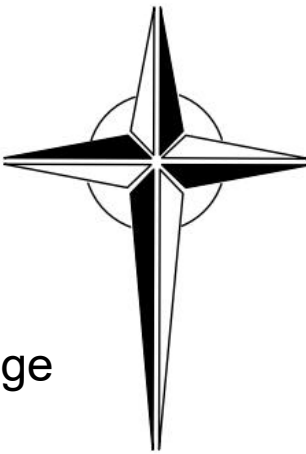
Note - Soakaway To Be Constructed At Least 5m From Boundaries & Buildings

5m Long x 1m Wide x 0.9m Deep Soakaway - See Seperate Detail

SWCP

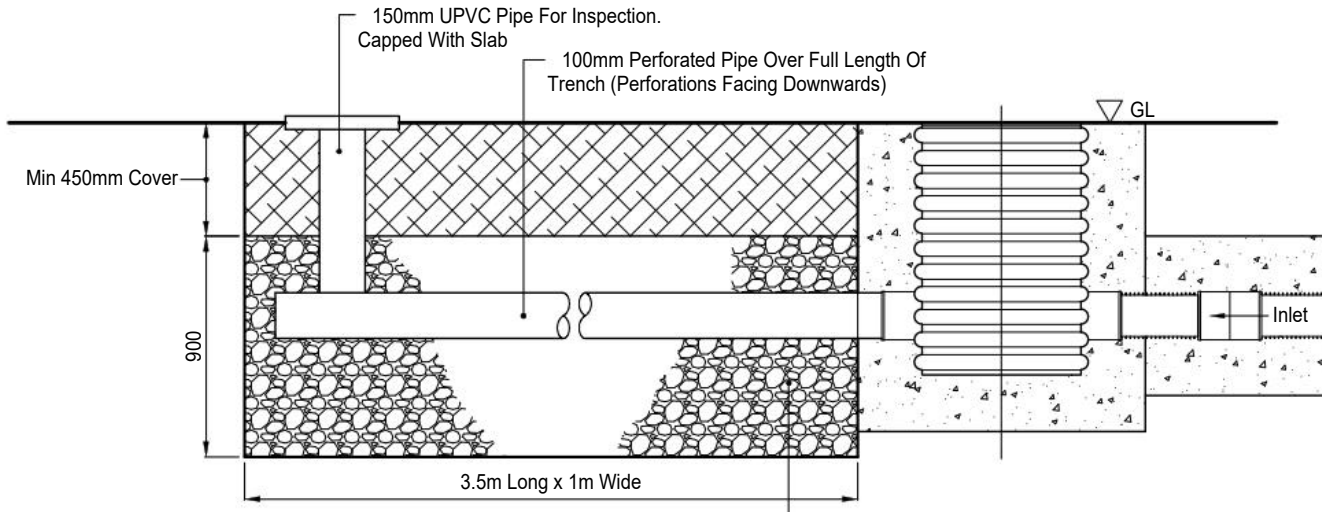
Garage Roof Area <= 2 sq.m.

North

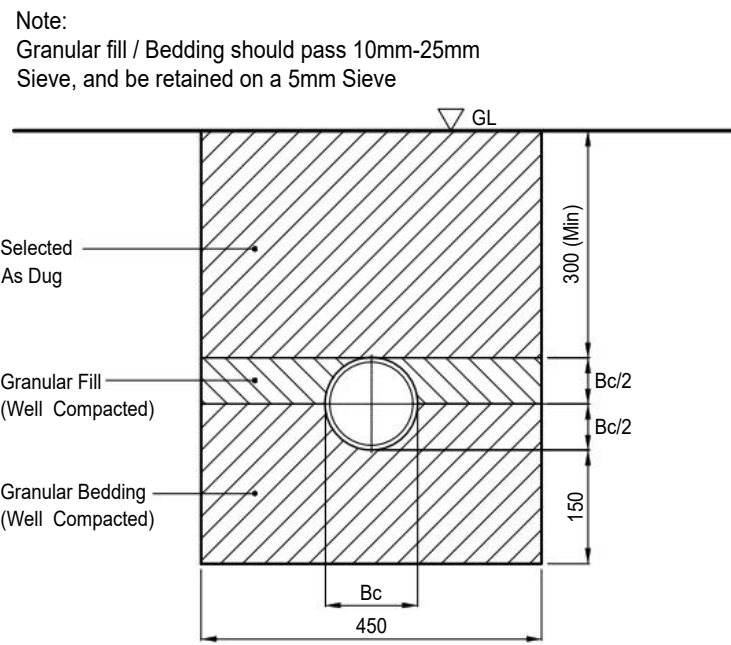


Typical Rodding Eye Detail

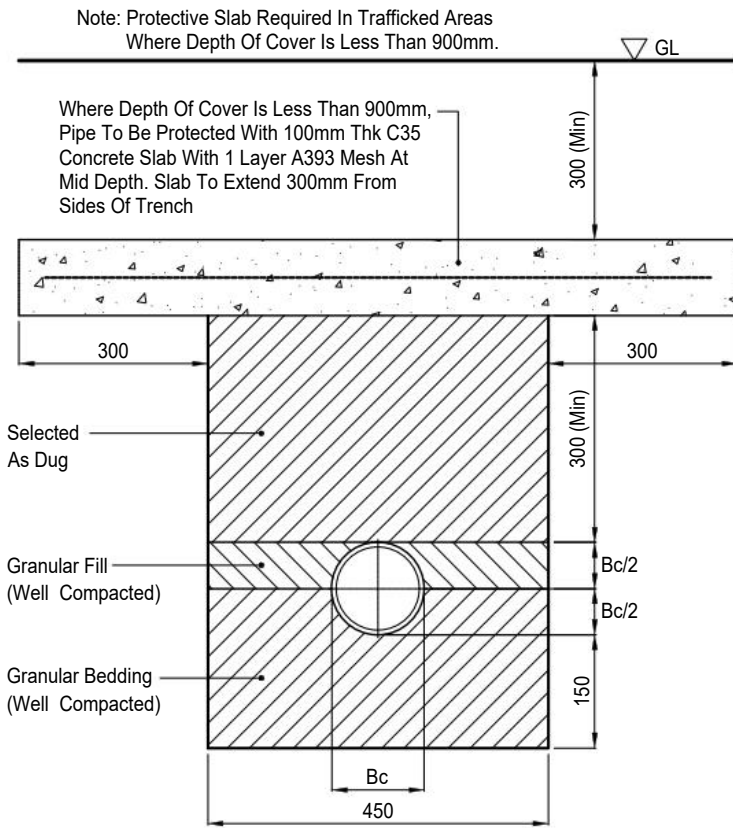
Rigidrain Catchpit Chamber



Soakaway Trench Detail



Bedding For Pipe In Single Trench



Bedding For Pipe In Single Trench, Trafficked Areas

Notes:

Proposed Drainage Legend

- R/E: Denotes Surface Water Rodding Eye
- SWIC: Denotes Surface Water Inspection Chamber
- SWCP: Denotes Surface Water Catch Pit
- Denotes 100mm UPVC Storm Water Sewer Laid At 1:100 U.N.O.
- Denotes 100mm Perforated Carrier Pipe Within Filter Sub-base
- Denotes Storm Water Deep Filter Sub-base

Incurtiage Drainage Notes

- All Levels Shown Must Be Confirmed On Site Prior To Commencing Work.
- The Contractor Should Evaluate Which Drainage Lines Require Concrete Protection, As A Result Of The Crown Of The Pipe Being > 1.2m From The Finished Trafficked Level.
- The Contractor Must Ensure That The Location Of RWP's & SVP's Indicated On This Drawing Coincide With The Location Of The RWP's & SVP's On The Architects Current Building Layout Plan.
- Refer To Architects Internal Layout For All Internal POP UP/SVP Setting Out Locations.
- All Pipe To Pipe Connections Are To Be Made Crown Of Pipe To Crown Of Pipe Unless Noted Otherwise.
- All Drainage To Be Installed In Accordance With The Manufacturers Recommendations And With Section 3 - Environment: Scottish Building Standards Agency - Technical Handbooks.
- All External Drainage To Be Constructed And Installed In Accordance With BS EN 752-3: 1997 (Amendment 2), BS EN 752-4: 1997 And BS EN 1610: 1997.

The Contractor Must Check All Invert Levels On The Existing Manholes As Soon As They Takes Control Of The Site And Advise Engineer To Allow A Check Of The Drainage To Be Carried Out.

ANY VARIATION FROM THE DESIGN SHOWN ON THIS DRAWING MUST BE NOTIFIED TO THE ENGINEER & HIS APPROVAL MUST BE OBTAINED. ANY UNAUTHORISED VARIATION FROM THE DESIGN MAY INVALIDATE ANY CERTIFICATION. IF IN DOUBT CONTACT THE ENGINEER.

THE CONTRACTOR MUST CONTACT THE ENGINEER PRIOR TO COMMENCING ANY WORK TO DISCUSS AND ENSURE FULL UNDERSTANDING OF THE DESIGN INTENT.

Revision	Description	By	Date

Client

Mr. J. Marshall

Architect

Machin Dunn & MacFarlane Limited



Tel: 01753 649639 email: admin@drpcs.co.uk

Project

Proposed Garage/Storage Shed At The Forecourt, Cummingsdown, Lossiemouth

Drawing

Proposed SW Drainage Layout & Details

DRAWING STATUS: FOR INFORMATION

Engineer:	KD	Date:	13.12.22
Technician:		Date:	

Project No.	Drawing No.	Revision
-------------	-------------	----------

22.5227

100

Drawing Scale: As Shown

B9040

Soakaway Design 2

Project Details

Project Title: The Forecourt, Cummingstown

Project Number: 5227

Designer: KD

Global Variables

Impermeable Area :- 117 m²

Soil Infiltration Rate :- 2.03E-5 m/sec

Storm Duration :- 60 minutes

Rainfall :- 0.016 metres

Void Ratio (Trench Soakaway) :- 0.3

Volumetric Runoff Coeff :- 1.00

Trench Soakaway

Length = 5 metres

Width = 0.94 metres

Depth = 0.9 metres

Half empty time = 4.28 hours

Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

* Ring soakaways are deemed to have failed if their Depth is greater than 4 metres.

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- <https://scottishhepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>



PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :



T
E
W
: 01259 212962
: enquiries@mdm-architecture.co.uk
: www.mdm-architecture.co.uk

On Behalf of :

Mr John Marshall – Applicant

E : jm@beatsons.co.uk

ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND I SUPPORTING STATEMENT
AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY
3.0	DESIGN PROPOSALS
4.0	CONCLUSION



1.0 | INTRODUCTION

1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



Image Copyright - Moray Local Development Plan

2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



Western extents of Existing Settlement Boundary



Land Subject to Planning Approval ref: 17/00830/APP

Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- 'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'
- 'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'
- 'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'
- REASONS FOR DECISION - 'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'

The Application was subsequently approved with conditions in July 2017.



Land Subject to Current Application ref: 22/01594/APP



'Notional' Settlement Boundary if Approved

2.3 - Current Application Relative to Settlement Boundary

The are obvious parallels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



Streetscape and Indication of Ridge Line Relative to Existing Garage

3.0 | DESIGN PROPOSALS

3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

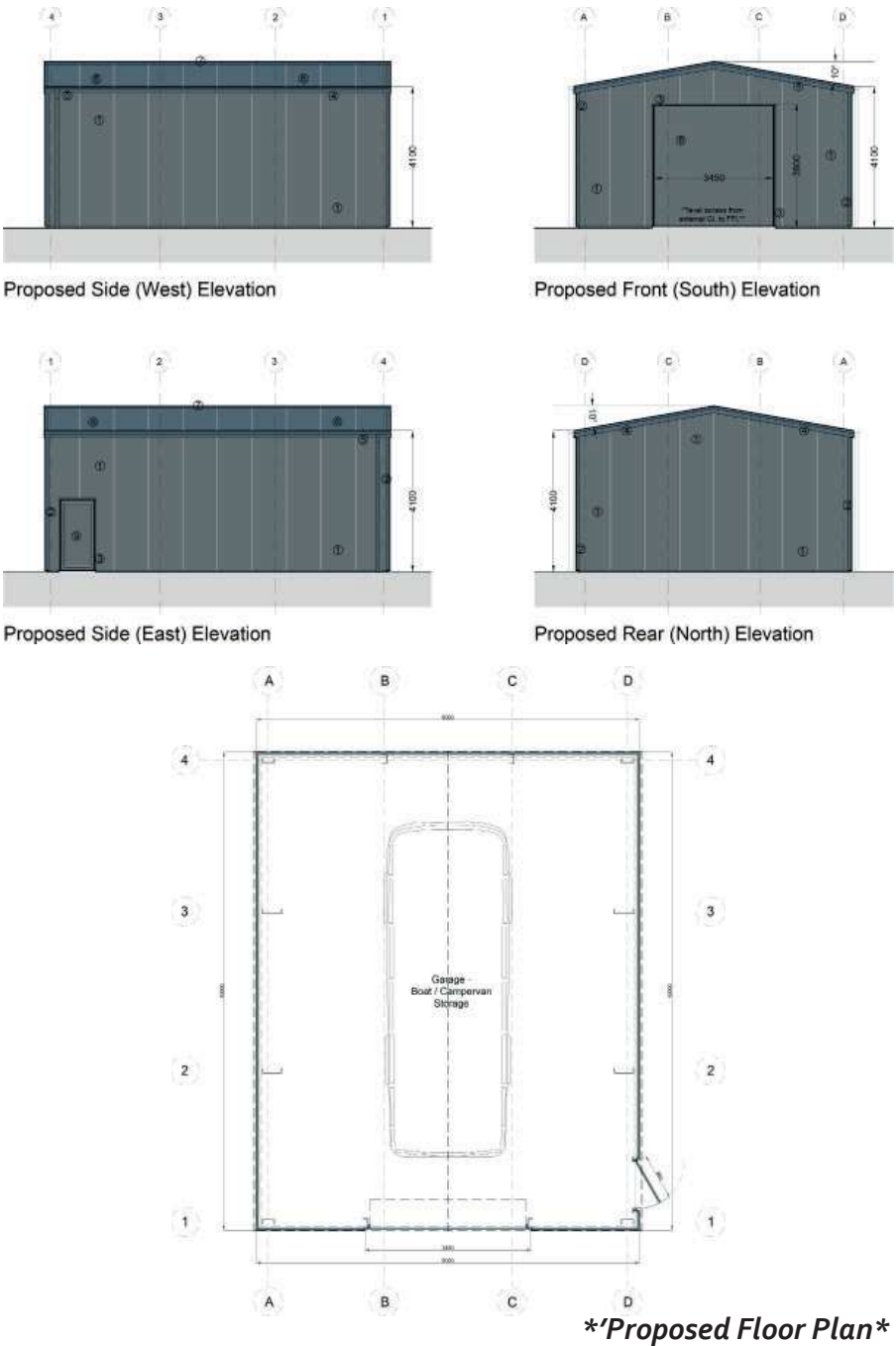
Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majortiy of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



3.2 - Summary of Consultation Repsonses

Of the two public representations received in relation to the project, the following common themes were noted:

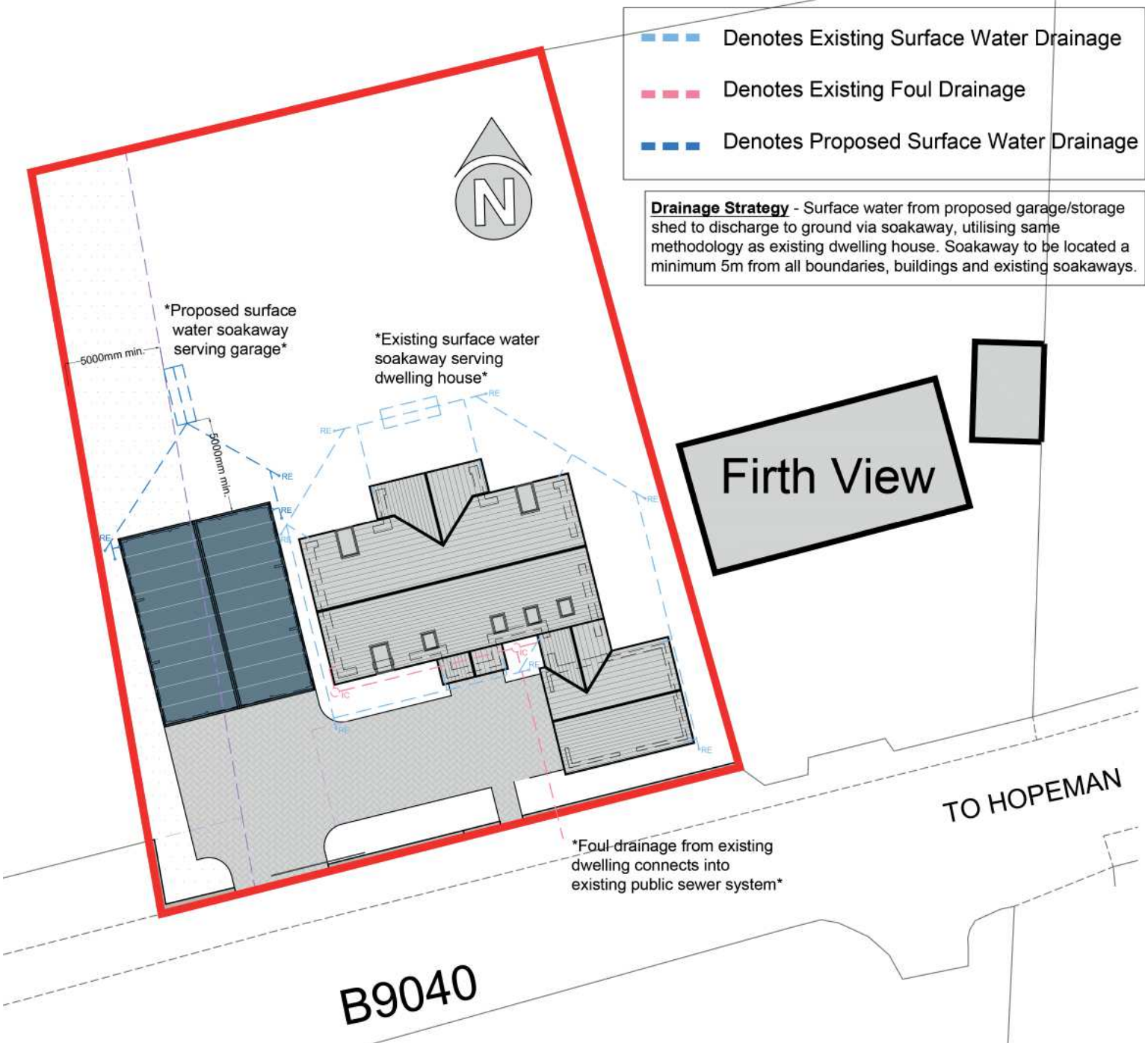
- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - No objections subject to conditions
- Environmental Health - Approved unconditionally
- Contaminated Land - Approved unconditionally
- Flood Risk Management - Object to Application per below:

Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.



4.0 | CONCLUSION

4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

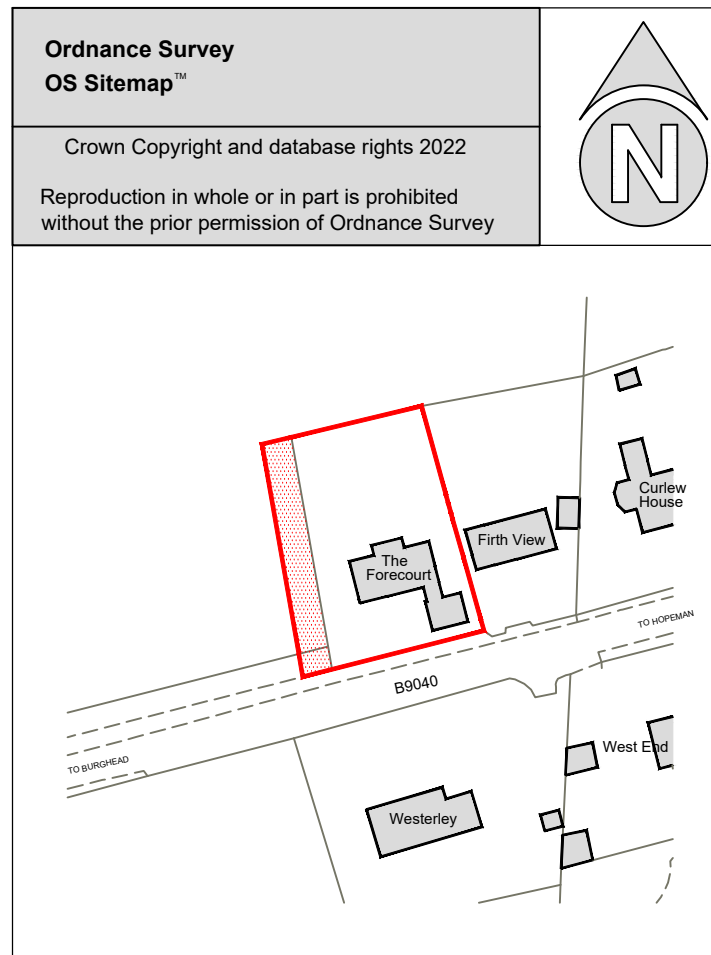
The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

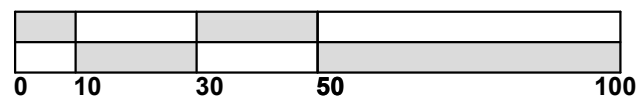
We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.





Location Plan 1:1250



Notes

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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

STATUS

PLANNING APPLICATION

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PROJECT

*Proposed Erection of Garage/Storage Shed and
Partial Change of Use to Garden Ground at
'The Forecourt', Cummingstown, Lossiemouth*

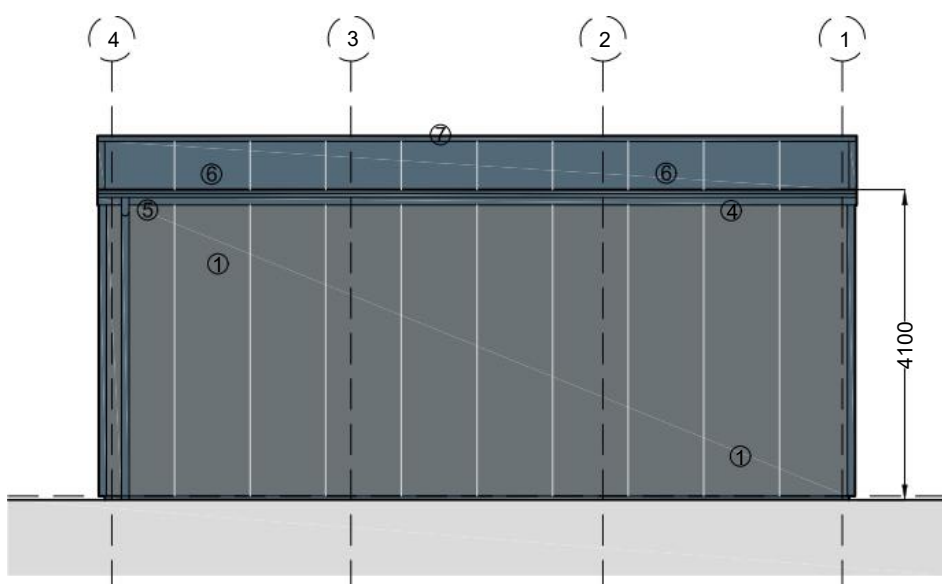
DRAWING TITLE

Location Plan

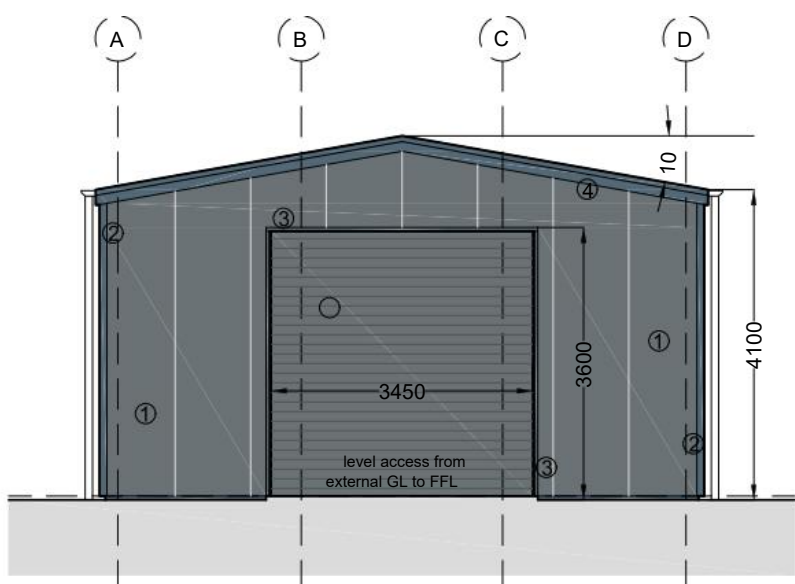
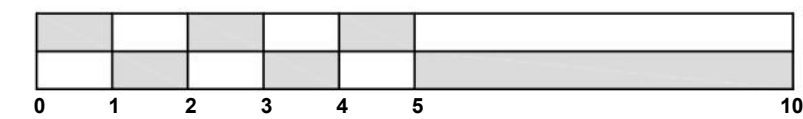
CLIENT

Mr J. Marshall

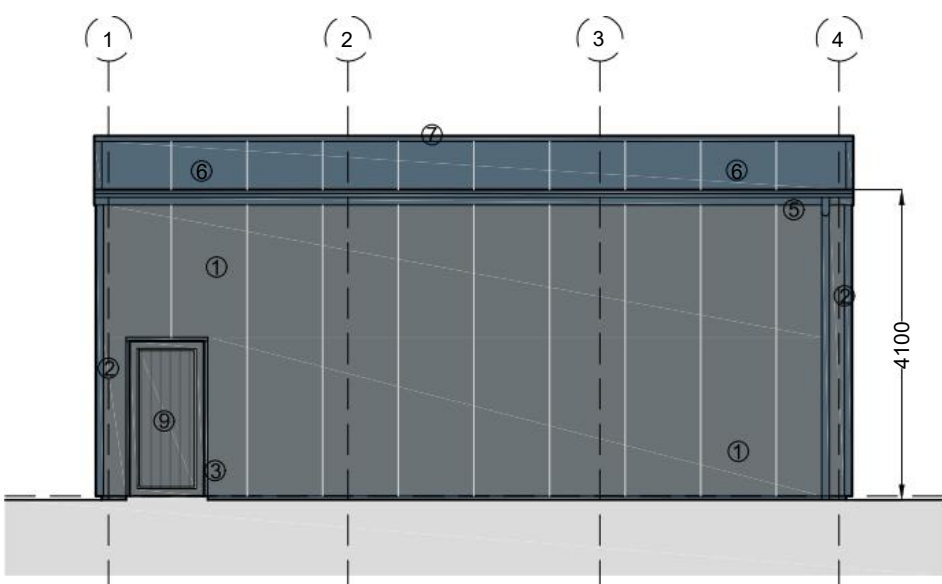
SCALE	As Noted @ A4	DATE	31st October 2022
DRG NO.	2273/P/1.01		



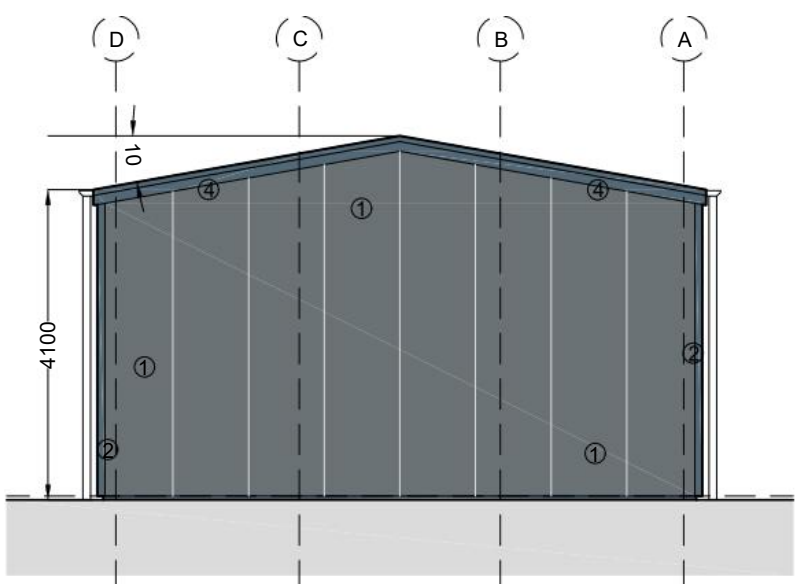
Proposed Side (West) Elevation 1:100



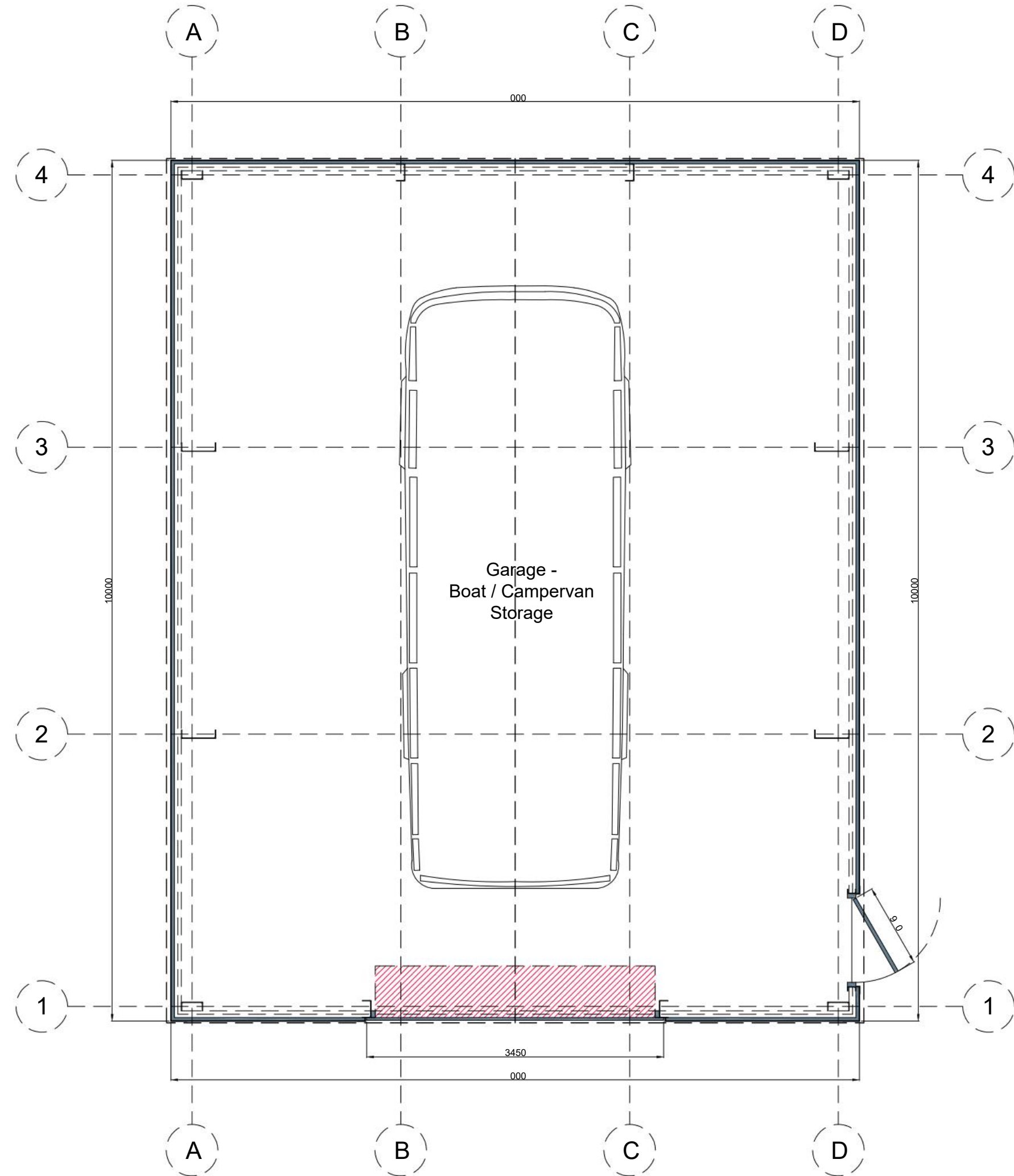
Proposed Front (South) Elevation 1:100



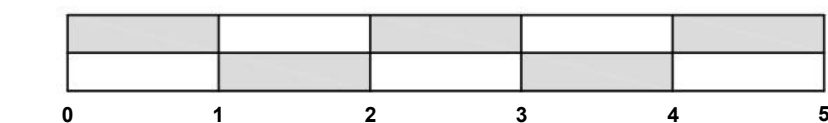
Proposed Side (East) Elevation 1:100



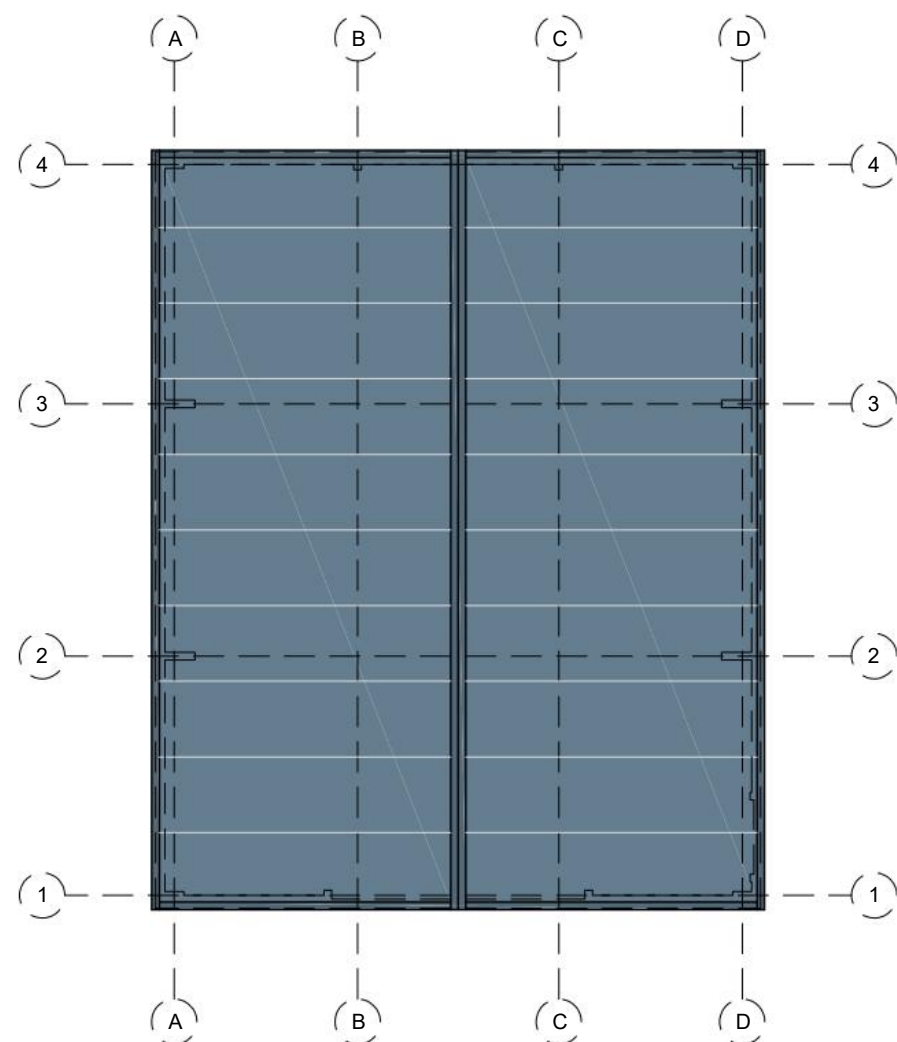
Proposed Rear (North) Elevation 1:100



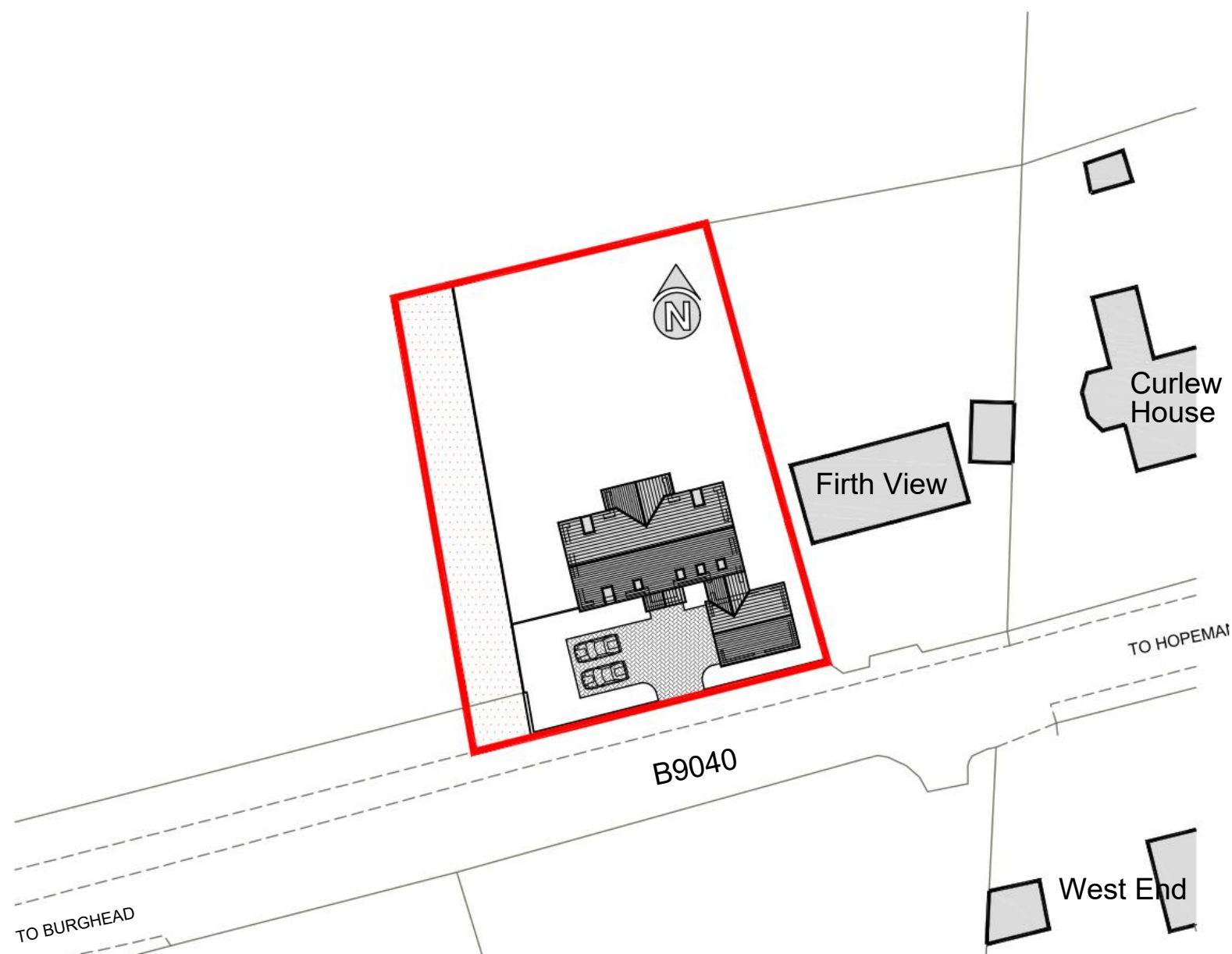
Proposed Garage Floor Plan 1:50



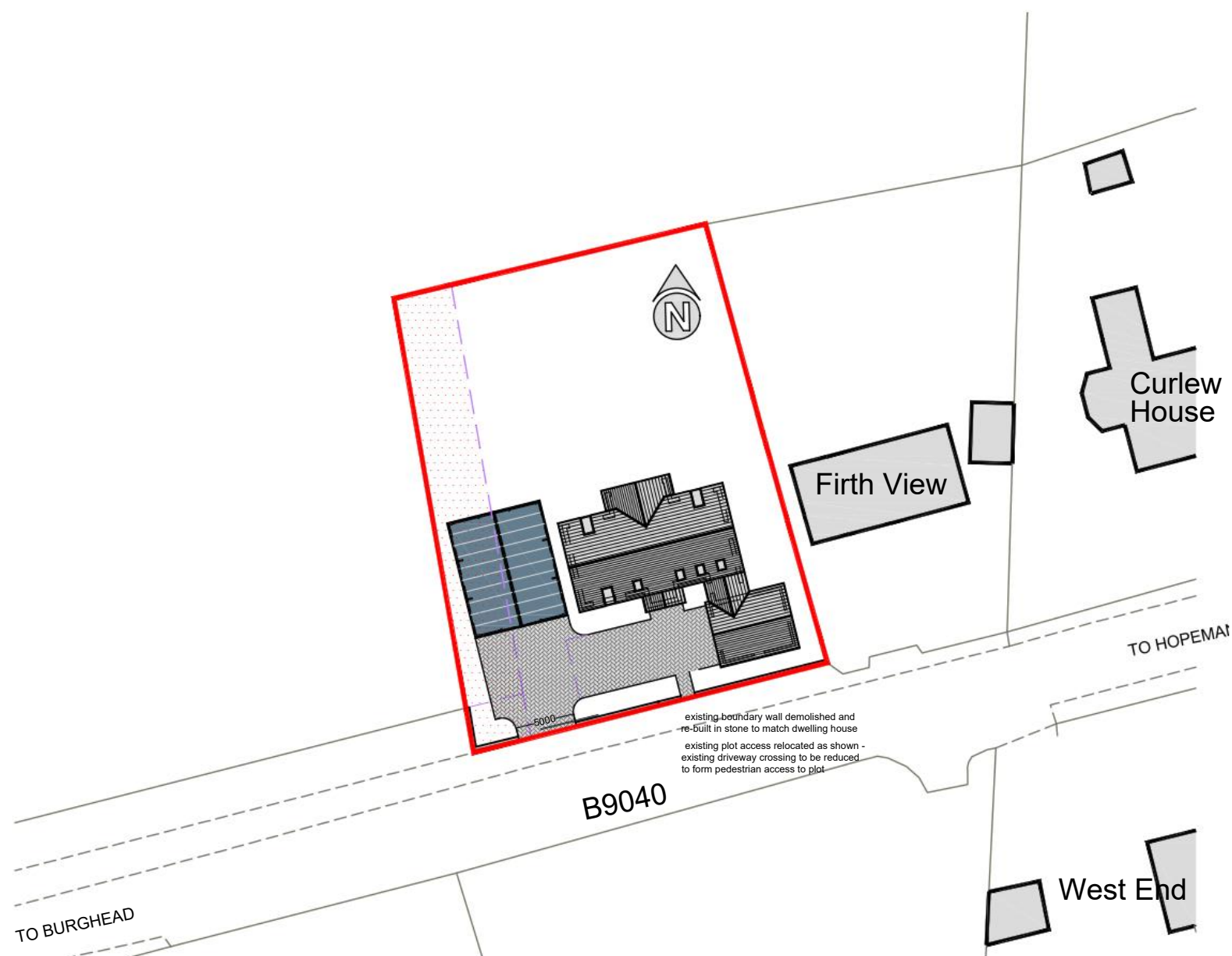
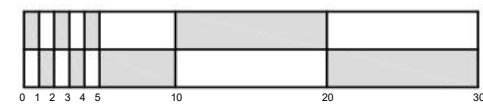
- Proposed Materials**
- Wall Cladding -**
1. 40mm Composite LPC Posco Merlin Grey
 2. Corner Flashings - Posco Slate Blue
 3. Opening Flashings - Posco Slate Blue
 4. Barge Colour - Posco Slate Blue
 5. Gutters - Posco Slate Blue
- Roof Cladding -**
6. 40mm Composite LPC Posco Slate Blue
 7. Ridge Cap - Posco Slate Blue
- Openings -**
8. Roller Door Posco Merlin Grey
 9. Pass Door - Posco Merlin Grey



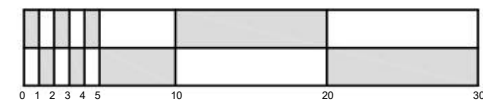
Proposed Roof Plan 1:100



Existing Site Plan 1:500



Proposed Site Plan 1:500



Proposed Streetscape 1:100



Notes

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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions

Date

STATUS

PLANNING APPLICATION

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PROJECT

Proposed Erection of Garage/Storage Shed and
Partial Change of Use to Garden Ground at
'The Forecourt', Cummingstown, Lossiemouth

DRAWING TITLE

Proposed Floor Plan, Elevations, Roof and Site Plans

CLIENT

Mr J. Marshall

SCALE As Noted @ A1

DATE 31st October 2022

DRG NO. 2273/P/1.02

REPORT OF HANDLING

Ref No:	22/01594/APP	Officer:	Lisa Macdonald
Proposal Description/ Address	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray		
Date:	17.01.2023	Typist Initials:	LMC

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	11/11/22	No objection
Environmental Health Manager	22/11/22	No objection
Transportation Manager	11/11/22	No objection subject to conditions to ensure that the relocated access is formed to an acceptable standard, adequate parking and turning is provided within the site, boundary treatments do not block visibility and the opening path of any new gate is contained within the site.
Moray Flood Risk Management	13/01/23	No objection following the submission of further information

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP4 Countryside Around Towns	N	
EP6 Settlement Boundaries	Y	See below
EP12 Management and Enhancement Water	N	
NPF4 policy 1		
NPF4 policy 2		
NPF4 policy 4		
NPF4 policy 9		

NPF4 policy 13		
NPF4 policy 14		
NPF4 policy 16		
NPF4 policy 22		

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received: TWO		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
<p>Issue: The development is a linear expansion beyond the village boundary as identified in the Local Plan and the Local Plan expressly states that linear extension along the B9040 is not supported.</p> <p>Comments (PO): This concern is noted and forms part of the reason for refusal as detailed below.</p>		
<p>Issue: The style of building is not in keeping with the rest of the village and is inappropriate at the entrance to the village.</p> <p>Comments (PO): The building has been designed in a simple and functional style. It is a large structure but the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.</p>		
<p>Issue: There is space at the rear of the house to accommodate such a development.</p> <p>Comments (PO): The application must be assessed as presented. The agent highlights in the supporting statement that the possibility of moving the building was discussed during the course of the application but this is not acceptable to the applicant as it would take up a large portion of the existing garden.</p>		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Following consideration of the revised draft National Planning Framework 4 (NPF4) which was approved by Parliament on 11 January 2023, NPF4 is now a material consideration and will be given significant weight in the consideration of planning applications on a case by case basis. NPF4 is due to be adopted on 13 February 2023.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Morar Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

The Proposal

This application seeks permission for change of use of a 5m wide strip of farm land to garden ground

in order to site a domestic garage/storage building. Half the proposed building will be sited on the land that is the subject of the change of use while the rest is within the existing garden ground of the house.

The Site

The building is to be sited to the west of the existing house which fronts the main road (B9040) through Cummingston. The house is the westernmost house in Cummingston on the north side of the road. There is an existing garage in the eastern part of the site which sits between the house and the road. The settlement boundary of Cummingston as identified in the Moray LDP follows the current boundary of the house. The land to the west which the application seeks to incorporate into the garden ground of the subject property is currently farm land. At present there is a clear boundary between the farmland and garden which is currently delineated by a fence and wall. The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

Siting (EP6 & Cummingston Settlement Text)

Policy EP6 states that proposals immediately outwith the boundaries of settlements will not be acceptable unless part of a LONG designation. The Settlement text for Cummingston goes beyond this stating explicitly that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that linear extension along the B9040 is not supported. The current proposal seeks to incorporate a 5m wide strip of farm land into an existing garden in order to site the building proposed. This would be a linear extension along the B9040 and encroachment onto land immediately outwith the settlement boundary. The proposed expansion of the settlement to the west by 5m is relatively small scale but incremental increases of this kind have the potential to gradually erode the character of a settlement. At present the western boundary of the village is clearly defined and well delineated. The expansion of the existing garden to site the proposed building would be an extension of the build area of Cummingston that does not respect the established pattern of development and erodes the distinction between Cummingston and Burghead which is to the west. The proposal is clearly at odds with the stated aims of the settlement text for Cummingston which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. The siting of this development is contrary to policy and it is therefore refused.

Design, Materials and Impact on the Special Landscape Area (SLA) (DP1 & EP3)

Policy EP3 requires development within defined settlements in a SLA to conform to the requirements of Settlement Statements and all other policies of the LDP and reflect the traditional settlement character in relation to siting and design. In this case the proposal is a clear departure from the clearly stated aim in the settlement statement to prevent linear development along the B9040 and further coalescence with Burghead to the west. This application would be a breach of the established boundaries of the village and result in additional built development along the roadside. A building of the scale proposed would be prominent in this location on the very edge of the settlement. The development does not reflect the traditional settlement pattern and as such is contrary to policy EP3.

Policy DP1 (i) (a) requires development to be of a scale that is appropriate to the character of the area and as noted above policy EP3 requires development within defined settlements to reflect the character of that settlement. The proposed building is large measuring 10m x 10m and 5 m to the ridge. It is noted that it would be lower than the existing house and in line with the existing garage. It has been designed in a simple style with a symmetrically pitched roof and a large roller door on the front (south) elevation. The proposed materials are grey metal cladding on the walls and slate blue metal sheeting on the roof. The design is typical of many outbuildings found in rural areas albeit large in a domestic setting. While the design and materials are of a type that could be accommodated in a less sensitive location a building of this size would be prominent in this location on the very edge of the village breaching the settlement boundary. Furthermore it would be at odds with the aims of the settlement statement which seeks to prevent further linear development along the B9040 and Policies DP1 and EP3 which requires development to conform with traditional

settlement character in terms of siting and design. The proposal is contrary to policy DP1 (i) (a) and policy EP3.

Precedent

It is noted that the Supporting Statement highlights the planning history of this site and suggests that this would set a precedent for the current proposal. The statement (p.5) states that part of the existing curtilage is technically outwith the settlement boundary and that the house was approved as an acceptable departure. This is not the case as the house was assessed (16/00□□1/APP refers) as being in accordance with policy as it was contained within the settlement and the mapping associated with the LDP shows the settlement boundary follows that of the existing garden ground. A further application (17/00□30/APP) was approved to increase the boundaries of the property to the north to incorporate farm land into garden ground. This was a departure from policy as it extended the boundaries of the property outwith the settlement boundary and encroached on the Coastal Protection Zone which was in force at the time. In approving that proposal as an acceptable departure the case officer noted that the expansion was logical as it brought the northern boundary of the property in line with that of the neighbouring property to the east and did not prejudice the aims or objectives of the settlement boundary policy or coastal protection zone policy. The case officer also noted that no built development was proposed as part of that application. The circumstances which made the previous case an acceptable departure do not apply in this instance. Restricting the linear expansion of the village along the road is an express aim of the LDP and this proposal deviates from that as it would result in additional built development along the road on land that is not currently part of the village. While planning history is a material consideration each application must be considered on its own merits. In this case cognisance of the planning history does not alter the assessment that the proposal is contrary to policy and should be refused.

Access and Parking (DP1)

The application seeks to form a new vehicular access in the western part of the site and the existing access will be converted to a pedestrian access only. An area is identified within the site for turning and parking. The Transportation Section has no objection subject to conditions requiring the existing access to be blocked off prior to completion or first use of the building, the new access to be formed to an acceptable standard and to ensure boundary treatments don't obscure visibility or encroach on the footway. Transportation also recommend conditions in relation to parking and turning. The recommended conditions would ensure safe entry and exit to the site and adequate parking and turning as required by policy DP1 (ii) (a) and (e).

Drainage (EP12)

A surface water soakaway is proposed to serve the garage. Additional calculations have been provided to support this element of the scheme. Following the receipt of the further information MFRM have confirmed that they have no objection. The timely provision of the Suds measures could be controlled by condition. The proposals would ensure that the surface water from the development was dealt with in a sustainable manner in accordance with policy EP12.

National Planning Framework 4

NPF4 is now a significant material consideration in the determination of planning applications. The relevant provisions of NPF4 are not considered to change the evaluation of the proposal as outlined above, noting that there are a limited number of policies relevant to this proposal in NPF4 namely policies 1, 2, 4, 9, 13, 14, 16 □ 22

Recommendation

This application proposes the change of use of farm land to garden ground in order to accommodate a large building on the western edge of Cummington. The proposal is clearly at odds with the stated aims of the settlement text for Cummington which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. A building of this scale in a prominent road side location

such as this is not in keeping with the character of this part of Cummingston and is contrary to policies DP1 (i) (a) and policy EP3. The siting of this development is contrary to policy and it is therefore refused.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
17/00□30/APP	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray			
	Decision	Permitted	Date Of Decision	31/07/17
16/00□□1/APP	Demolish building and erect 2 storey dwellinghouse with integral garage and associated works at Old Filling Station Cummingston Elgin Moray IV30 5XY			
	Decision	Permitted	Date Of Decision	20/07/16

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/01/23	
PINS	Departure from development plan	09/01/23	

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *

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

Supporting information submitted with application□	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Explanation of the proposal.	
	Justification for departure from policy including precedent of previous permission.	
Document Name:	Drainage Statement	
Main Issues:	Calculations to support the proposed soakaway.	

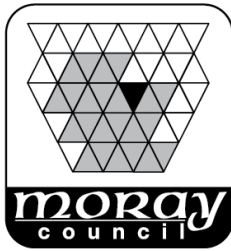
S.75 AGREEMENT

Application subject to S.75 Agreement		NO
Summary of terms of agreement:		

Location where terms or summary of terms can be inspected:

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR200 Regs)

Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



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

REFUSAL OF PLANNING PERMISSION

**[Heldon And Laich]
Application for Planning Permission**

TO Mr John Marshall
c/o Machin Dunn + MacFarlane
11 Bank Street
Alloa
FK10 1HP

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

Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray

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

Date of Notice: **19 January 2023**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
100		Proposed SW drainage layout and details
2273/P/1.02		Elevations and floor plans
2273/P/1.01		Location plan
2273/P/1.03		Proposed drainage strategy and layout

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

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

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be

permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 3

APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4

Lissa Rowan

From: Lisa MacDonald
Sent: 15 March 2023 11:34
To: Lissa Rowan
Subject: RE: 22/01594/APP - The Forecourt Cummingston

Hi Lissa

I can confirm that no additional information has been submitted.

I can also confirm that assessing the application against NPF4 would not lead me to a different conclusion.

NPF4 policy 4 (d) states that development proposals that affect a site designated as a local landscape area will only be supported where development will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified or any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits or at least local importance. Policy 16 (g) states that householder proposals will be supported where they do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials. A building of this scale and design in this prominent location would not reflect the character of this part of the village therefore it is considered to be contrary to NPF4 policies 4 (d) and 16 (g).

Regards

Lisa

Lisa MacDonald MRTPI | Senior Planning Officer (Development Management) | Economic Growth & Development
lisa.macdonald@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)
01343 563479 | 07779888566



Please note my working pattern is Tuesday-Friday



APPENDIX 4

APPLICANT'S RESPONSE TO NPF4

Lissa Rowan

From: Neil MacFarlane <neil@mdm-architecture.co.uk>
Sent: 04 April 2023 13:52
To: Lissa Rowan
Subject: RE: Notice of Review: Planning Application 22/01594/APP
Attachments: LR286 - NPF Response - Appointed Officer.pdf

Warning. This email contains one or more attachments and originates from outside of the Moray Council network.

You should only open these attachments if you are certain that the email is genuine and the content is safe.

Warning. This email contains web links and originates from outside of the Moray Council network.

You should only click on these links if you are certain that the email is genuine and the content is safe.

Afternoon Lissa,

Many thanks for sending through the appointed officers comments in relation to NPF4.

Having reviewed the comments, it is our considered view that the nature of our proposals would not have a significant adverse impact on the local landscape area. While every development, including ours, has some degree of impact on its surroundings, a judgement has to be carefully exercised as to the scale of such an impact, particularly the use of the words 'significant adverse impact'.

As our proposals can be read against the backdrop of the existing property, the scale of impact on the wider area is greatly reduced. We have specifically sought to provide a building which is subservient to the main building on the major part of the site. While we acknowledge that the nature of our proposal extends into the local landscape area, similarly, it ought to be noted by that a significant element of our proposal is contained within the existing settlement boundary - and that it is only in part that our proposals go beyond that settlement boundary.

In accepting that our proposals have some impact, we contend that this is moderated by the scale of the proposal in comparison to the existing dwelling house and the specific micro siting that we adopted for its positioning on the site. We would accept there is some degree of impact, as there is with all proposals, but would strongly contest that this results in a 'significant adverse impact' on the local landscape area. The local landscape area's characteristics will not be unduly harmed were our proposal to be accepted.

We would therefore contend that our proposals are not contrary to NPF4 policies 4 (d) nor 16 (g) for the reasons outlined above.

Can you confirm if any additional comments have been raised by interested parties as yet (I appreciate today is the last day by which they must be returned), and if not, can you confirm whether the dates indicated previously in relation to the case being heard still apply.

Many thanks for all assistance.

Kind Regards,
Neil MacFarlane
DIRECTOR
machin dunn + macfarlane

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