



MORAY LOCAL REVIEW BODY

29 AUGUST 2019

SUMMARY OF INFORMATION FOR CASE No LR226

Ward 6 – Elgin City North

Planning Application 19/00173/APP – Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field, Elgin

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 16 April 2019 on the grounds that:

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area, contrary to policy IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policy DP1).

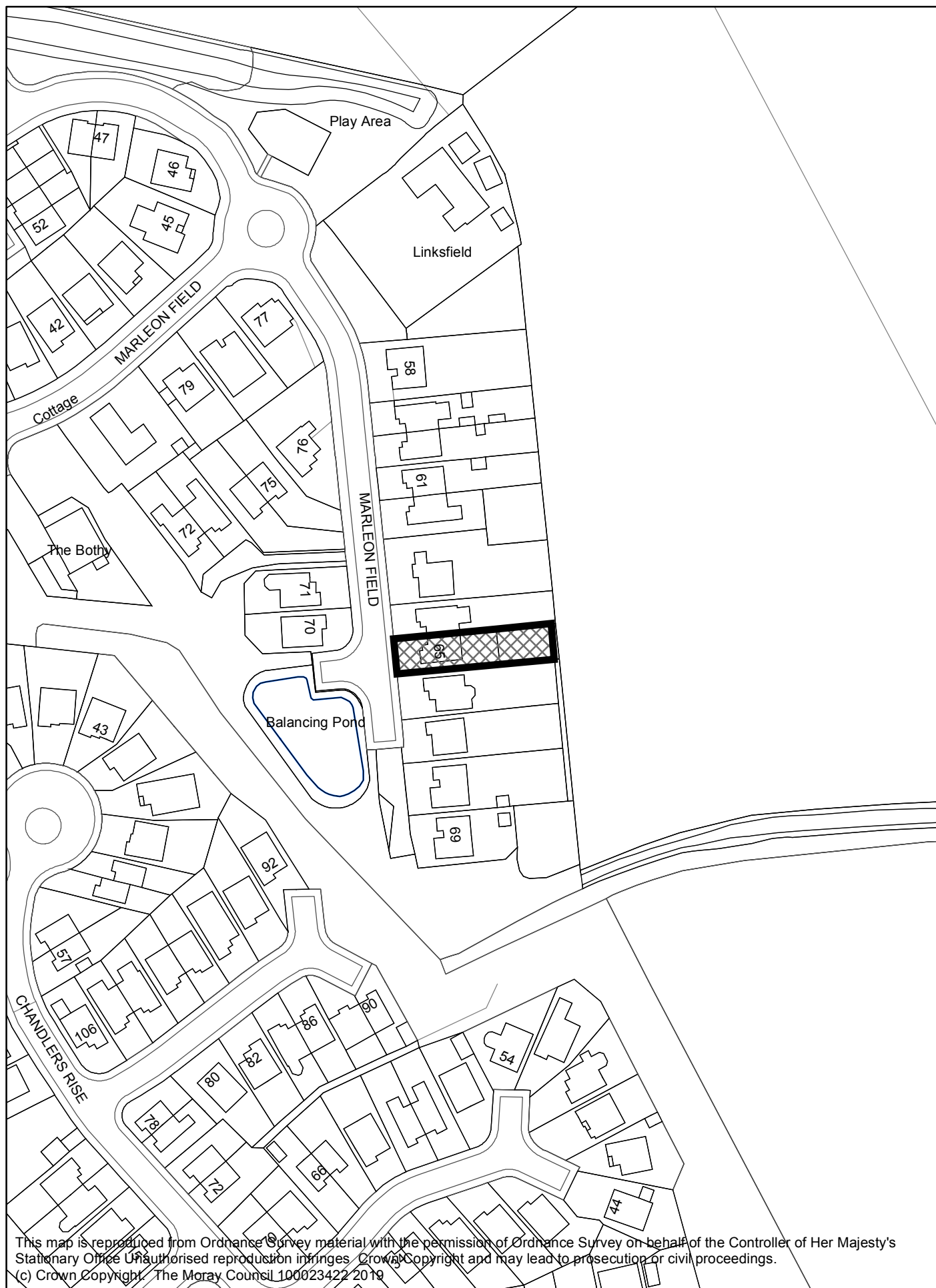
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

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

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



Location plan for Planning Application Reference Number : 19/00173/APP





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

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 100146179-003

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

Type of Application

What is this application for? Please select one of the following: *

- ☒ Application for planning permission (including changes of use and surface mineral working).
- ☐ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Change of use of amenity land to garden ground and erect summer house work room and shed at 65 Marleon Field, Elgin

Is this a temporary permission? *

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

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

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Grant and Geoghegan Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	Unit 4 Westerton Road Business
Last Name: *	Grant	Building Number:	
Telephone Number: *	07769744332	Address 1 (Street): *	4 Westerton Road South
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	KEITH
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB55 5FH
Email Address: *	neil@ggmail.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Laura	Building Number:	4
Last Name: *	Mackay	Address 1 (Street): *	Unit 4
Company/Organisation		Address 2:	Unit 4, Westerton Road Business
Telephone Number: *		Town/City: *	KEITH
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	AB55 5FH
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

863954

Easting

322560

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

121.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Undeveloped land

Access and Parking

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

☐ Yes ☒ No

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

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>	
<p>How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?</p>	<div style="border: 1px solid black; padding: 2px 10px;">0</div>
<p>How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *</p>	<div style="border: 1px solid black; padding: 2px 10px;">3</div>
<p>Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).</p>	
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2>	
<p>Will your proposal require new or altered water supply or drainage arrangements? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input checked="" type="checkbox"/> Yes – connecting to public drainage network</p> <p><input type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>	
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>	
<h2 style="margin: 0;">Assessment of Flood Risk</h2>	
<p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>	
<h2 style="margin: 0;">Trees</h2>	
<p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	
<h2 style="margin: 0;">Waste Storage and Collection</h2>	
<p>Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	

If Yes or No, please provide further details: * (Max 500 characters)

To local authority requirements

Residential Units Including Conversion

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

☐ Yes ☒ No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☒ Yes ☐ No

All Types of Non Housing Development – Proposed New Floorspace Details

For planning permission in principle applications, if you are unaware of the exact proposed floorspace dimensions please provide an estimate where necessary and provide a fuller explanation in the 'Don't Know' text box below.

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Class 2 Financial, professional and other services

Gross (proposed) floorspace (In square meters, sq.m) or number of new (additional) Rooms (If class 7, 8 or 8a): *

10

If Class 1, please give details of internal floorspace:

Net trading spaces:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Beauty room for owner/applicants home business

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Neil Grant

On behalf of: Ms Laura Mackay

Date: 17/02/2019

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☒ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☐ Yes ☒ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement. *

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Neil Grant

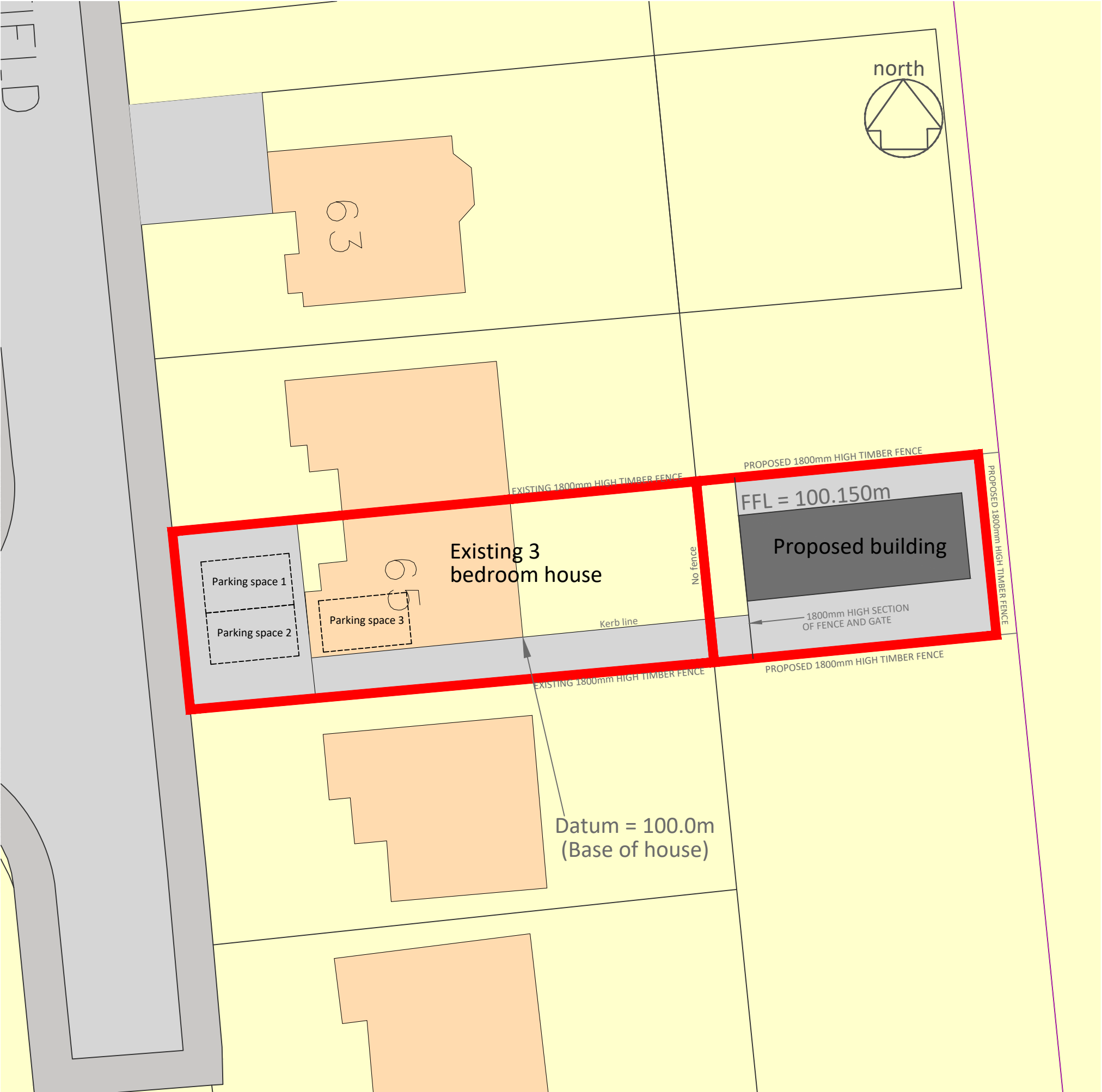
Declaration Date: 06/12/2018

Payment Details

Online payment: 298600

Payment date: 17/02/2019 20:12:48

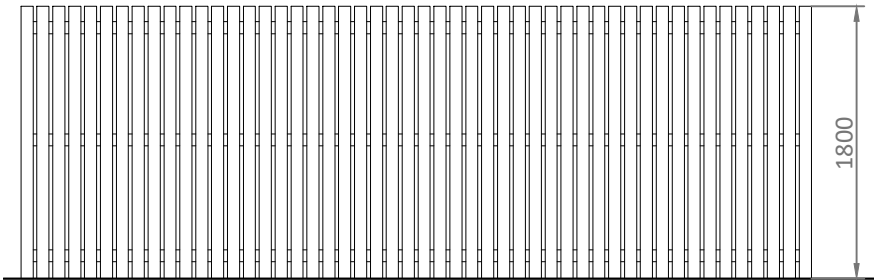
Created: 17/02/2019 20:12



site plan 1:200



location plan 1:1250



typical fence elevation

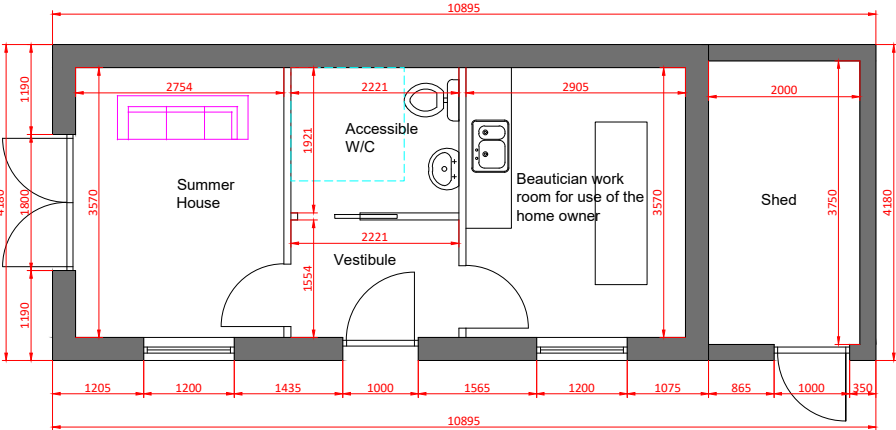
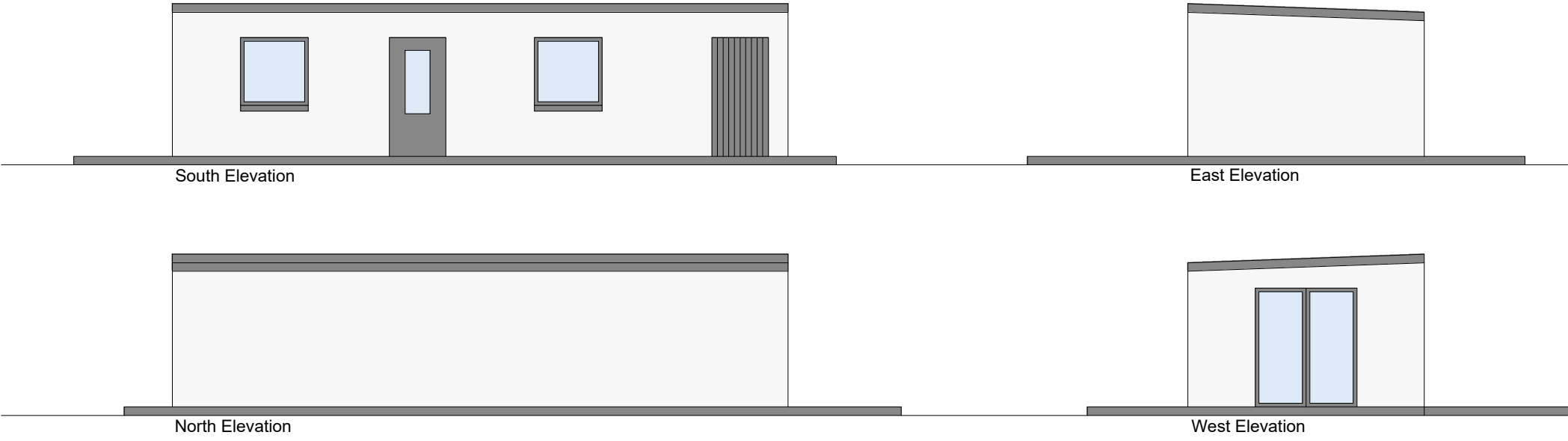
grant and
geoghegan

planning, development and
architectural consultants

T:01343 556644
E:enquiries@ggmail.co.uk

65 Marleon Field, Elgin
for
Ms Laura Mackay

Drawing Title	Drawing No.
Site & Location Plan	014/0840/P-1
Scale @ A3	Date
1:50/200/2000	Jan 19
Amendments/Revisions	



Floor plan 38sqm

Beauty room (Ancillary to main 3 bedroom dwellinghouse)

- One customer per visit with minimum 15minute space between appointments to allow customers to avoid waiting
- Operating hours (pre booking only) 9am-6pm Monday to Friday, 10am-5pm Saturday, Sunday closed

external finishes

- roof
grey metal sheeting
- walls
white render

grant and
geoghegan
planning, development and
architectural consultants

T:01343 556644
E:enquiries@ggmail.co.uk

65 Marleon Field, Elgin for Ms Laura Mackay	
Drawing Title	Drawing No.
Plans and elevations	014/0840/P-2
Scale @ A3	Date
1:100	May 2014
Amendments/Revisions	

Gary Mackintosh
Email: gmsurveys@gmail.com
Tel: 07557 431 702

gmsurveys

Surveys, Setting-Out Civil Engineering Design

Surface Water Drainage Assessment

65 MARLEON FIELDS, ELGIN

Gary Mackintosh BSc
gmsurveys@gmail.com

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<i>Company Information:</i>	2
Assessment completed by:	2
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Client:

Mrs L McKay

Site Address:

65
Marleon Fields
Elgin

Planning Reference:

N/A

Date:

31st January 2019

Job Number:

0459

Company Information:

Assessment completed by:

Gary Mackintosh BSc

GMCSurveys

34 Castle Street

Forres

Moray

IV36 1PW

Email: gmcsurveys@gmail.com

Telephone: 07753384192

Site Description:

Number 65 Marleon Field is located within the Silver Crest development to the east of Lesmurdie Road, Elgin.

It is proposed to erect a new summer house within the garden area to the rear of the property.

GMC Surveys were asked to provide a ground investigation and report/design for surface water drainage required to accommodate the new building.

The SEPA Flood Maps have been consulted which show no risk of fluvial or pluvial flooding within or adjacent to the site.

There is existing foul drainage associated with the existing house and it is proposed that the summer house will make a direct connection via gravity to this existing infrastructure to disperse of the foul waters.

There is an existing concrete ring surface water soakaway located within the garden area as indicated in Appendix A. The size could not be established during the site visit as the lid could not be lifted.

Soil Conditions:

Excavations were carried out on 31st January 2019 to assess the existing ground conditions and carry out infiltration testing for the dispersal of surface waters via soakaways.

The trial pits were excavated to depths of 1.6m. The pits were left open and no ground water was encountered and there was no evidence of contamination within the pit.

The existing Topsoil of approximately 150mm depth had already been removed from the excavation area. The existing sub soils consist of brown loose fine Sands to a depth of 650mm bgl overlying light brown medium to loose, fine slightly gravelly sands to the depth of the excavations.

Infiltration testing:

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

Infiltration Test	Pit Dimensions (w/l)	Test Zone (mbgl)	Infiltration Rate (m/s)
INF01	1.0m x 1.0m	1.0 - 1.6	9.25×10^{-5}

Conclusion and Recommendations:

Based on the onsite investigations it can be confirmed that the underlying soils suitable for the use of infiltration to manage and disperse the surface water flows from the new roof area.

The foul drainage for the new building area to connect to the existing foul drainage associated with the house.

Surface Water Soakaway:

There are two options available for the surface water drainage. Option one would be to connect to the existing soakaway located within the garden area if the sizing is sufficient to accommodate the additional area. Option 2 would be to install a new concrete ring soakaway to manage the flows from the new roof area only.

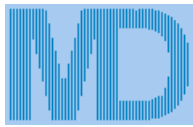
From the calculation sheets below, the existing soakaway ring would require to be a minimum 1200mm diameter ring with 1.31m storage below the invert of the incoming pipe and a 300mm stone filled surround. The actual size will require to be established on site with calculations revised, if necessary, before any connection could be made.

For Option 2, the calculation sheet below, a concrete soakaway ring with dimensions of 900mm diameter with 1.0m storage below the invert of the pipe with a 300mm stone filled surround would be adequate to manage the runoff from the new building only.

Typical details for the surface water soakaway can be found within Appendix B.

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

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



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Surveys, Setting Out Civil Engineering Design

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

Job No.	0459		
Sheet no.	1		
Date	31/01/19		
By	GM	Checked	Approved
Title			

Project **65 Marleon Field, Elgin**
Title **Option 1 Soakaway Requirements**

Data:-

Location hydrological data (FSR):-

Location	= ELGIN	Grid reference	= NJ2162
M5-60 (mm)	= 14.0	r	= 0.24
Soil index	= 0.40	SAAR (mm/yr)	= 800
WRAP	= 3	Area	= Scotland and N. Ireland

Soil classification for WRAP type 3

- i) Relatively impermeable soils in boulder and sedimentary clays, and in alluvium, especially in eastern England;
- ii) Permeable soils with shallow ground water in low-lying areas;
- iii) Mixed areas of permeable and impermeable soils, in approximately equal proportions.

Design data:-

Safety factor = 1.5 - No damage or inconvenience (SF=1.5)
Fill porosity = 0.45 - Clean stone (porosity = 0.4 - 0.5)

Equivalent porosity (n1) = 0.33

Ring diameter = 1200 mm

Pit dimensions= 1.8 x 1.8 metres

Area drained = 115 m²

Infiltration coefficient = 0.333 m/hr
Effective inf.coeff (q) = 0.222

Return period = 30 yrs

Climate change factor = 30%

Calculations :-

Concrete ring design:-

Perimeter of pit = (2 x Excavation Width)+(2 x Excavation Length)
Area of base = Excavation Width x Excavation Length
Infiltration area = (Area of base)+(Perimeter of pit x Hmax)
Temporary constant 'a'
= (Area of base / perimeter)-((AreaDrained x Rainfall depth /1000)/((Perimeter/Inf. coeff))
Temporary constant 'b' = (Perimeter/Inf. coeff) / (Area of base x porosity)
Hmax = a*((EXP(-1 x b x Duration of storm))-1)

Note: The Hmax calculation is iterated to a maximum value of Hmax.

Note: Duration of storm in hours, Rainfall depth in mm/hr x Climate Change factor.

Results :-

Emptying time to 50% volume = 0:19 (hr:min)

hMax (Depth) = 1.31 metres

Time to maximum = 0:01 hr:min

Rainfall at maximum = 38.3mm/hr

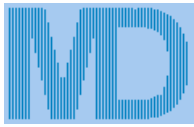
Width (m) = 1.8

Length (m) = 1.8

Total Infiltration area = 12.7m² (base area + sidewall area).

Total available volume = 3.28m³

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.
Formulae and methods from CIRIA 156.



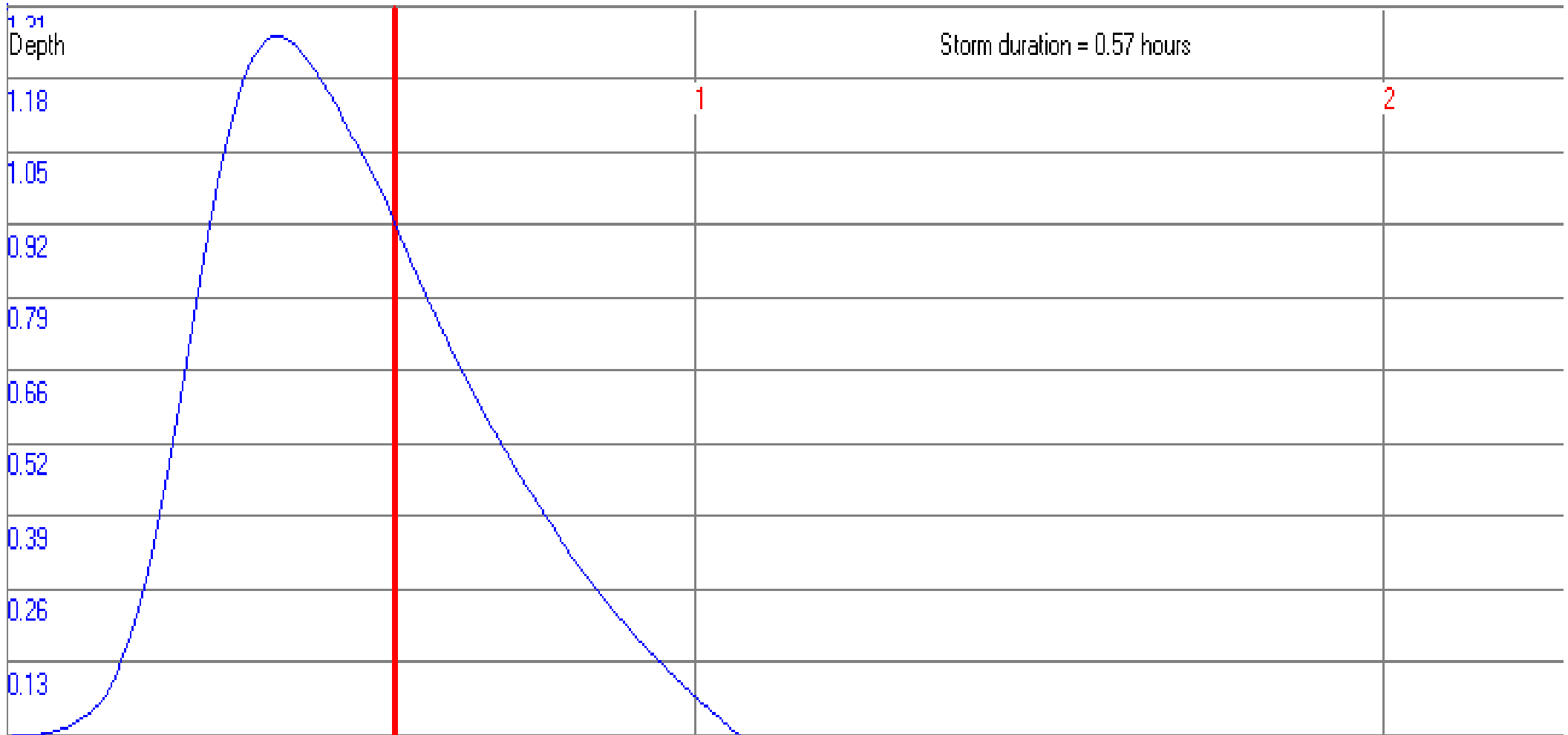
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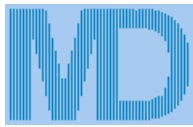
gmcsurveys
Surveys, Setting Out, Civil Engineering Design

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

Job No. 0459		
Sheet no. 2		
Date 31/01/19		
By GM	Checked	Approved

Project 65 Marleon Field, Elgin	Title Worst case soakaway times to empty.





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SW 16.10

gmcsurveys
Surveys, Setting Out Civil Engineering Design

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

Job No. 0459		
Sheet no. 1		
Date 31/01/19		
By GM	Checked	Approved

Project 65 Marleon Field, Elgin
Title Option 2 - New Roof Area Only

Data:-

Location hydrological data (FSR):-

Location = ELGIN	Grid reference = NJ2162
M5-60 (mm) = 14.0	r = 0.24
Soil index = 0.40	SAAR (mm/yr) = 800
WRAP = 3	Area = Scotland and N. Ireland

Soil classification for WRAP type 3

- i) Relatively impermeable soils in boulder and sedimentary clays, and in alluvium, especially in eastern England;
- ii) Permeable soils with shallow ground water in low-lying areas;
- iii) Mixed areas of permeable and impermeable soils, in approximately equal proportions.

Design data:-

Safety factor = 1.5 - No damage or inconvenience (SF=1.5)
Fill porosity = 0.45 - Clean stone (porosity = 0.4 - 0.5)

Equivalent porosity (n1) = 0.21

Ring diameter = 900 mm

Pit dimensions= 1.5 x 1.5 metres

Area drained = 50 m²

Infiltration coefficient = 0.333 m/hr
Effective inf.coeff (q) = 0.222

Return period = 30 yrs

Climate change factor = 30%

Calculations :-

Concrete ring design:-

Perimeter of pit = (2 x Excavation Width)+(2 x Excavation Length)
Area of base = Excavation Width x Excavation Length
Infiltration area = (Area of base)+(Perimeter of pit x Hmax)
Temporary constant 'a'
= (Area of base / perimeter)-((AreaDrained x Rainfall depth /1000)/((Perimeter/Inf. coeff))
Temporary constant 'b' = (Perimeter/Inf. coeff) / (Area of base x porosity)
Hmax = a*((EXP(-1 x b x Duration of storm))-1)

Note: The Hmax calculation is iterated to a maximum value of Hmax.

Note: Duration of storm in hours, Rainfall depth in mm/hr x Climate Change factor.

Results :-

Emptying time to 50% volume = 0:09 (hr:min)

hMax (Depth) = 0.94 metres

Time to maximum = 0:00 hr:min

Rainfall at maximum = 50.54mm/hr

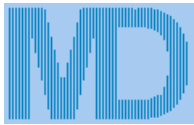
Width (m) = 1.5

Length (m) = 1.5

Total Infiltration area = 7.9m² (base area + sidewall area).

Total available volume = 1.68m³

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.
Formulae and methods from CIRIA 156.



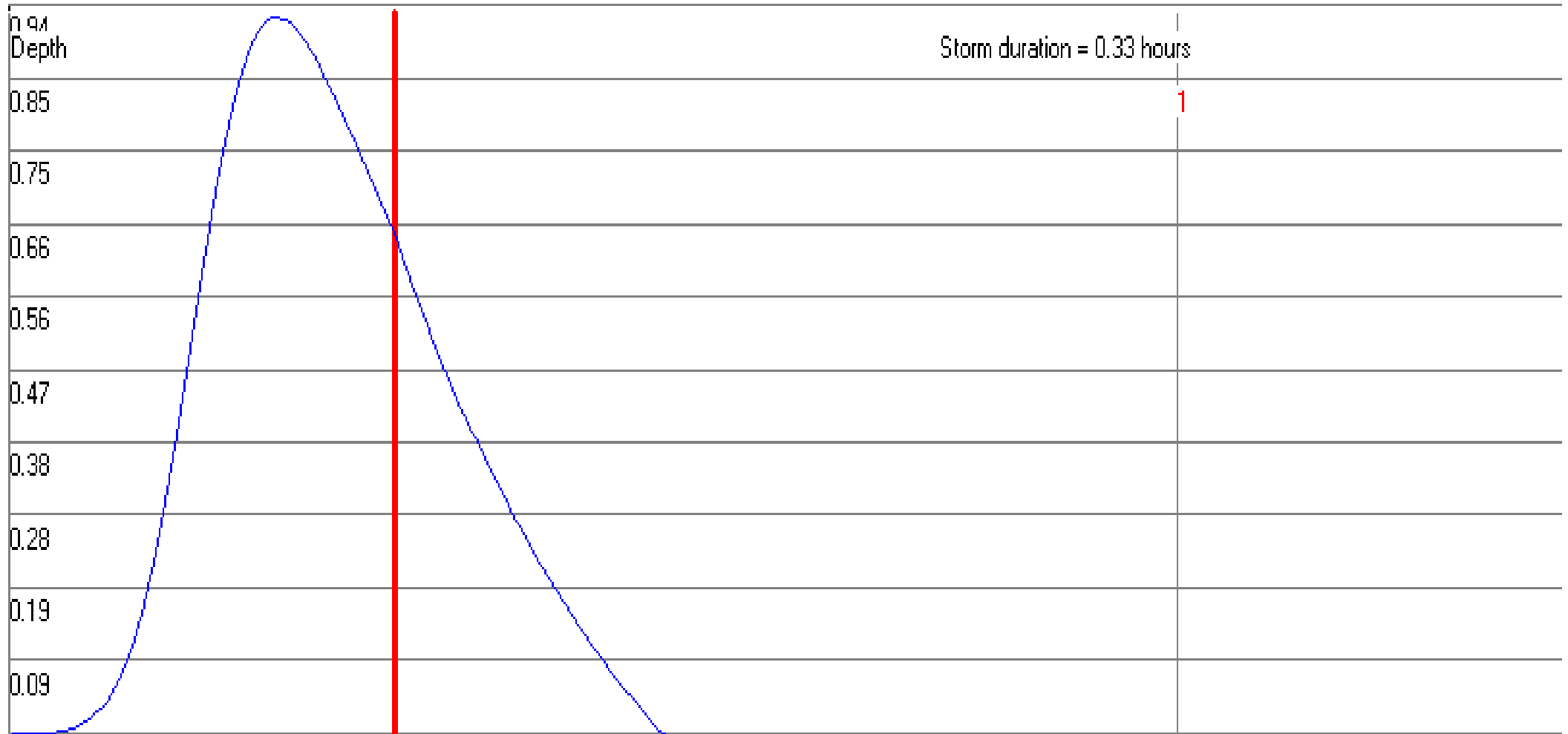
MasterDrain
SW 16.10

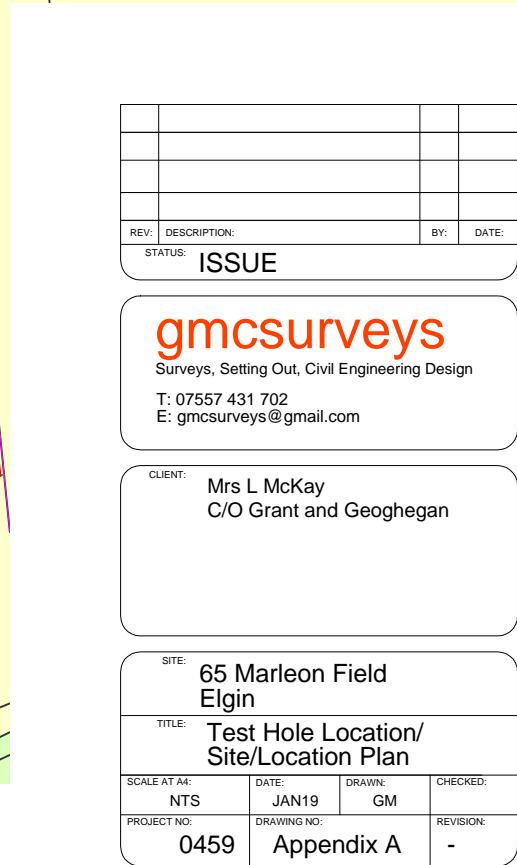
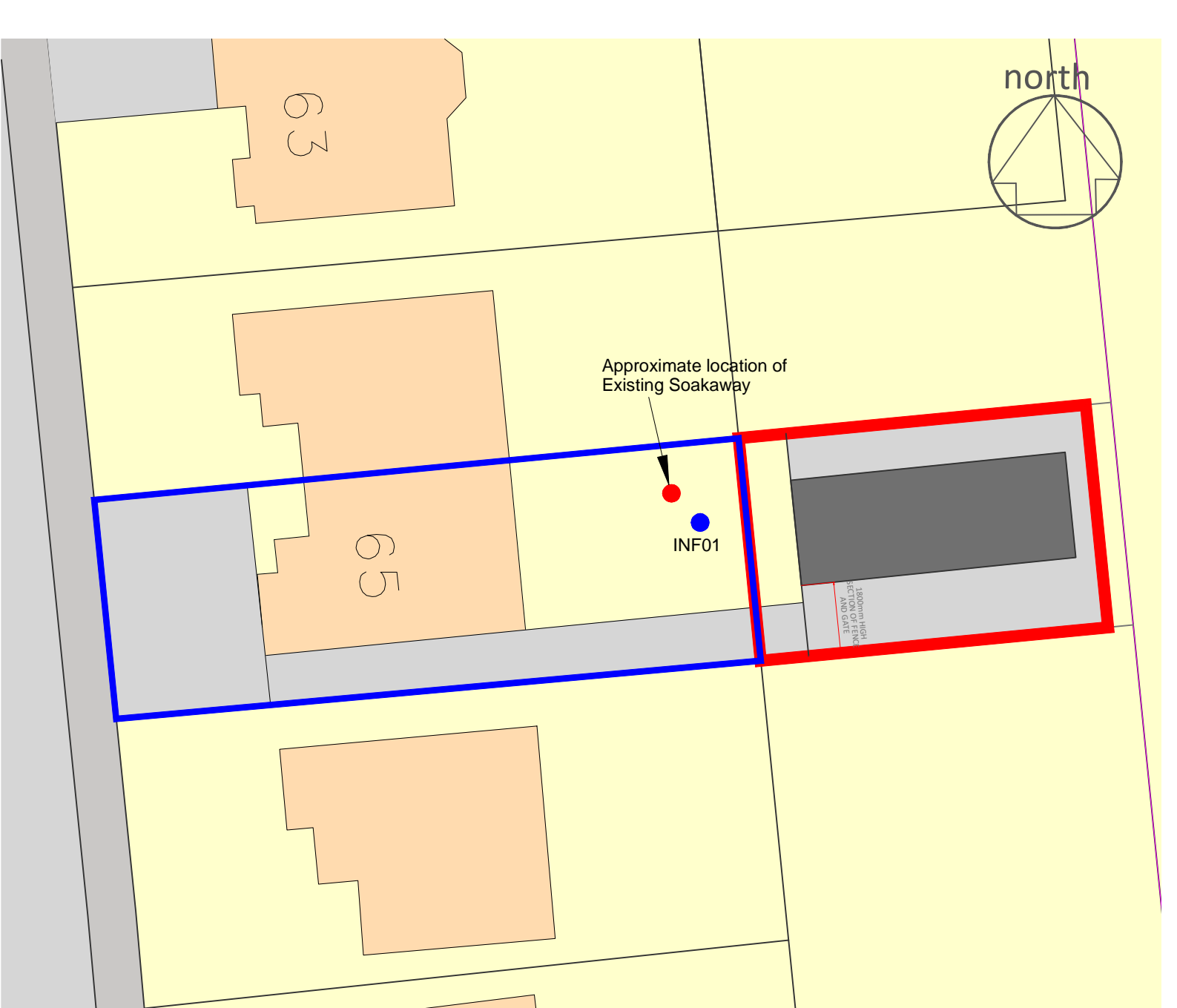
gmcsurveys
Surveys, Setting Out, Civil Engineering Design

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

Job No. 0459		
Sheet no. 2		
Date 31/01/19		
By GM	Checked	Approved

Project 65 Marleon Field, Elgin	
Title Worst case soakaway times to empty.	



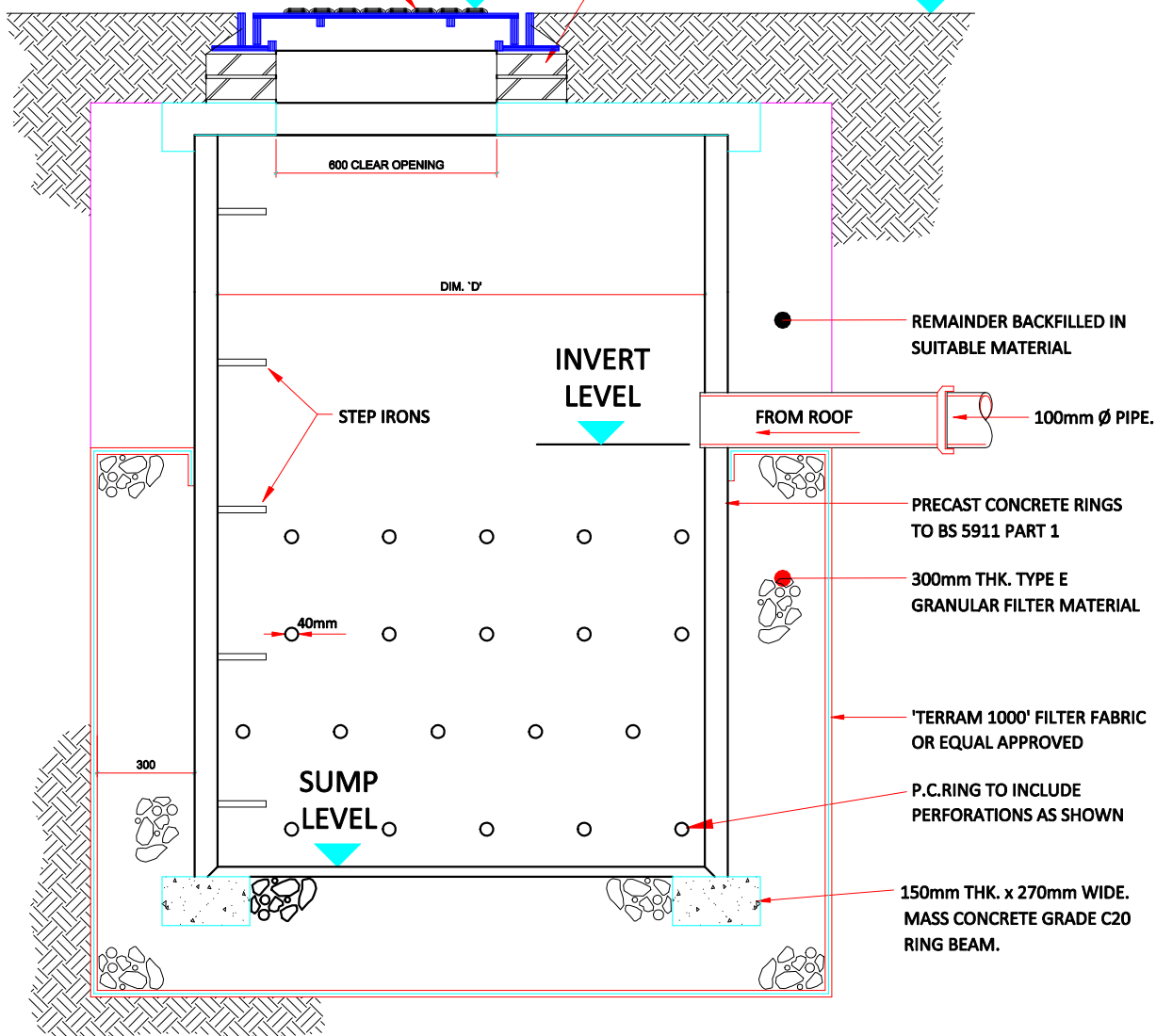


MEDIUM DUTY DUCTILE IRON COVER AND FRAME
TO BS 497, SINGLE PIECE CIRCULAR COVER
WITH SQUARE FRAME FLANGE.

COVER
LEVEL

2-3 COURSES CLASS 'B'
ENGINEERING BRICK TO BS 5628.

GROUND
LEVEL



REV:	DESCRIPTION:	BY:	DATE:
STATUS: ISSUE			

gmcsurveys

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

E: gmcsurveys@gmail.com

CLIENT: Mrs L McKay
C/O Grant and Geoghegan

SITE: 65 Marleon Field
Elgin

TITLE: Indicative
Soakaway Details

SCALE AT A4: NTS	DATE: JAN19	DRAWN: GM	CHECKED:
PROJECT NO: 0459	DRAWING NO: Appendix B	REVISION: -	

MORAY COUNCIL PLANNING CONSULTATION RESPONSE

From: Building Standards

Planning Application Ref. No: 19/00173/APP

Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field Elgin Moray IV30 4GE for Ms Laura Mackay

In terms of Building Warrant requirements.

**Please
x**

(a) A Building Warrant is required

X

(b) A Building Warrant is not required (IBS008)

☐

(c) A Building Warrant will not be required but must comply with Building Regulations.(IBS009)

☐

(d) Comments

☐

.....
.....

Contact: Emma Thomas

Date: 563442

email address: emma.thomas@moray.gov.uk

Phone No: 563442

Consultee: Building Standards

Return response to	consultation.planning@moray.gov.uk
---------------------------	---

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

Consultee Comments for Planning Application 19/00173/APP

Application Summary

Application Number: 19/00173/APP

Address: 65 Marleon Field Elgin Moray IV30 4GE

Proposal: Change of use of amenity land to garden ground and erect summer house/work room and shed at |cr|

Case Officer: Cathy Archibald

Consultee Details

Name: Mr CL Consultations

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

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

Comments

Approved Unconditionally - Adrian Muscutt

Consultee Comments for Planning Application 19/00173/APP

Application Summary

Application Number: 19/00173/APP

Address: 65 Marleon Field Elgin Moray IV30 4GE

Proposal: Change of use of amenity land to garden ground and erect summer house/work room and shed at |cr|

Case Officer: Cathy Archibald

Consultee Details

Name: Mr EH Consultations

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

Email: ehplanning.consultations@moray.gov.uk

On Behalf Of: Environmental Health C12

Comments

Approved Unconditionally - Kevin Boyle

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	7th March 2019
Planning Authority Reference	19/00173/APP
Nature of Proposal (Description)	Change of use of amenity land to garden ground and erect summer house/work room and shed at
Site	65 Marleon Field Elgin Moray IV30 4GE
Site Postcode	N/A
Site Gazetteer UPRN	000133034183
Proposal Location Easting	322540
Proposal Location Northing	863952
Area of application site (M²)	121
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=PN40V0BGMIW00
Previous Application	18/01230/ID
Date of Consultation	21st February 2019
Is this a re-consultation of an existing application?	No
Applicant Name	Ms Laura Mackay
Applicant Organisation Name	
Applicant Address	Per Agent
Agent Name	Grant And Geoghegan Limited
Agent Organisation Name	
Agent Address	Unit 4 Westerton Road Business Centre 4 Westerton Road South Keith AB55 5FH
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Cathy Archibald
Case Officer Phone number	01343 563101
Case Officer email address	cathy.archibald@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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

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

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

For full terms please visit http://www.moray.gov.uk/moray_standard/page_121513.html

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

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

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 19/00173/APP

Change of use of amenity land to garden ground and erect summer house/work room and shed at

65 Marleon Field Elgin Moray IV30 4GE for Ms Laura Mackay

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"/> |

Note: Although this proposal is described as a change of use and erection of summer house/ work room, the proposed work room is to be used as an annexe to provide beauty treatment (working from home). The applicant has stated that no additional staff will be employed, and that treatment shall be limited to one customer per session. The following conditions would therefore apply:

Condition(s)

1. Three car parking spaces shall be provided within the site prior to the first use or completion of the summerhouse/work room, whichever is the sooner. The parking spaces shall thereafter be retained 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.

2. The vehicular access shall be widened to minimum 5.5m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the widened access to The Moray Council specification.

Reason: To ensure acceptable infrastructure at the development access

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 access.

Further comment(s) to be passed to applicant

An existing road gully is located within the section of widened driveway, and may require to be relocated. The developer should contact the Moray Council Roads Maintenance team road.maint@moray.gov.uk to discuss the proposals. If required, the road gully shall be relocated at the expense of the developer.

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.

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

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: DA/AG

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

Consultee: TRANSPORTATION

Date 07 March 2019

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.

REPORT OF HANDLING

Ref No:	19/00173/APP	Officer:	Andrew Miller
Proposal Description/ Address	Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field Elgin Moray IV30 4GE		
Date:	16/04/19	Typist Initials:	FJA

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Moray Flood Risk Management	12/04/19	No objections.
Contaminated Land	21/02/19	No objections.
Environmental Health Manager	21/02/19	No objections.
Transportation Manager	07/03/19	No objection subject to conditions relation to parking and access.
Building Standards Manager	21/02/19	Building Warrant required.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
EP5: Sustainable Urban Drainage Systems	N	
EP10: Foul Drainage	N	
T5: Parking Standards	N	
IMP1: Developer Requirements	Y	
DP1 Development Principles	Y	

REPRESENTATIONS

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

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require applications for planning permission to be determined in accordance with the development plan (i.e. the Moray Local Development Plan 2015 (MLDP)) unless material considerations indicate otherwise.

On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

The main planning issues are considered below.

Site

The site comprises a modern semi-detached house and an area of amenity space to the rear of the house, the same width of the plot and protruding by approximately 13.5 metres.

Proposal

Consent is sought for the change of use of the area of ground to the rear of the house to incorporate it into its curtilage, and the erection of a single storey building on the extended garden ground. The building would be used as a beautician's salon, and would incorporate a domestic summer house and shed. It would measure 10.9 x 4.2 metres (approx.), reaching a height of 2.7 metres with a very shallow mono-pitch roof, finished in white render to the walls and grey metal sheeting to the roof. The extended garden ground would be enclosed by a 1.8 metre high timber slatted fence. The area to the front of the existing house would be converted to parking and hardsurfacing would be provided to the rear of the property - whilst these are shown on the plans they do not require planning consent under permitted development rights.

Supporting information provided with the application identifies that the beauticians would be run by the occupant of the house with no additional employees. It is proposed that it would operate on an appointment only basis, 9.30am - 5pm Tuesday to Friday.

Principle

The proposed extension of the garden ground of the house into the area of amenity space is considered to be suitable - a number of properties in the area have undertaken this. The resultant plot would follow the width of the existing house plot, and would not result in the loss of valued amenity space (at the time of this application it was overgrown and unkempt).

However, consideration must be given to the principle of the erection of the proposed business unit. The proposed use by its own nature will result in activity of customers coming and going (be it through the house or via the side) to access the rear of a house. This activity is not a typical use that would be found in the rear garden of a house in a residential area and it is considered that it, if permitted, would result in an adverse impact on the amenity of neighbouring properties in terms of privacy. Accordingly, the general principle of the proposed building for business use is not acceptable and considered to be contrary to policy IMP1, due to its adverse impact on the amenity of the surrounding area.

Design and Siting

The proposed building would be relatively large and of simple design and finishes. Whilst this design is basic and its scale relatively large (almost a similar length as the house itself), the building alone would not require consent were it for domestic use and located within the curtilage of the house that is proposed (i.e. extended). On this basis, the proposed building is considered to be suitable in terms of its design and siting.

Parking and Access

Sufficient parking can be provided to the front of the house, in line with the requirements of policy T5. It is noted the Transportation Manager raised no objection to the proposal, subject to conditions in relation to the provision of parking spaces to the front.

Drainage

The unit would connect to the public water/sewerage supply. This is acceptable, satisfying policy EP10. With regard to surface water drainage, a drainage statement provided with the application details the proposed use of a surface water soakaway for the proposed building. This found that the ground conditions are suitable for the proposed arrangement, with Moray Flood Risk Management raising no objection to the proposed scheme. As such there is no conflict with policy EP5.

Recommendation

Refusal is recommended.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

HISTORY

Reference No.	Description			
18/01230/ID	Erect log cabin in rear garden to operate as beauty room at 65 Marleon Field Elgin Moray IV30 4GE			
	Decision	Planning Permission Required	Date Of Decision	17/10/18

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises	21/03/19	
PINS	No Premises	21/03/19	

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

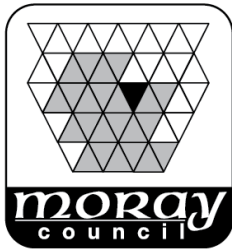
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Supporting Statement	
Main Issues:	Email received 07/04/19 outlining proposed operation of business.	
Document Name:	Drainage Report	
Main Issues:	Outlines proposed drainage arrangement for the proposed unit.	

S.75 AGREEMENT

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

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

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



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

REFUSAL OF PLANNING PERMISSION

**[Elgin City North]
Application for Planning Permission**

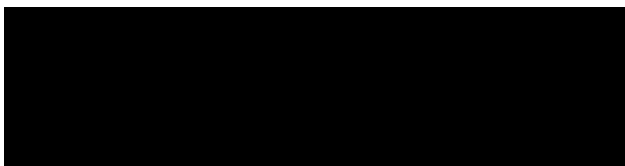
TO Ms Laura Mackay
c/o Grant And Geoghegan Limited
Unit 4
Westerton Road Business Centre
4 Westerton Road South
Keith
AB55 5FH

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

Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field Elgin Moray IV30 4GE

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

Date of Notice: **16 April 2019**



HEAD OF DEVELOPMENT SERVICES

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

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area, contrary to policy IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policy DP1).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
014/0840/P-1		Fence details site and location plan
014/0840/P-2		Elevations and floor plans

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

N/A

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

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

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



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS

NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	<input type="text" value="Mrs"/>	Ref No.	<input type="text"/>
Forename	<input type="text" value="Laura"/>	Forename	<input type="text" value="Neil"/>
Surname	<input type="text" value="Mackay"/>	Surname	<input type="text" value="Grant"/>
Company Name	<input type="text"/>	Company Name	<input type="text" value="Grant & Geoghegan"/>
Building No./Name	<input type="text"/>	Building No./Name	<input type="text" value="Unit 4"/>
Address Line 1	<input type="text"/>	Address Line 1	<input type="text" value="Westerton Road Business Centr"/>
Address Line 2	<input type="text"/>	Address Line 2	<input type="text" value="Westerton Road South"/>
Town/City	<input type="text"/>	Town/City	<input type="text" value="Keith"/>
Postcode	<input type="text"/>	Postcode	<input type="text" value="AB55 5FH"/>
Telephone	<input type="text"/>	Telephone	<input type="text"/>
Mobile	<input type="text"/>	Mobile	<input type="text"/>
Fax	<input type="text"/>	Fax	<input type="text"/>
Email	<input type="text"/>	Email	<input type="text"/>

3. Application Details	
Planning authority	<input type="text" value="Moray Council"/>
Planning authority's application reference number	<input type="text" value="19/00173/APP"/>
Site address	<div style="border: 1px solid black; padding: 10px; min-height: 100px;"><div>65 Marleon Field Elgin Moray IV30 4GE</div></div>
Description of proposed development	<div style="border: 1px solid black; padding: 10px; min-height: 50px;"><div>Change of use of amenity land to garden ground and erect summer house/work room and shed</div></div>

Date of application	18/02/2019	Date of decision (if any)	16/04/2019
---------------------	------------	---------------------------	------------

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

4. Nature of Application

Application for planning permission (including householder application)	<input checked="" type="checkbox"/>
Application for planning permission in principle	<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)	<input type="checkbox"/>
Application for approval of matters specified in conditions	<input type="checkbox"/>

5. Reasons for seeking review

Refusal of application by appointed officer	<input checked="" type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application	<input type="checkbox"/>
Conditions imposed on consent by appointed officer	<input type="checkbox"/>

6. Review procedure

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

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

Further written submissions	<input type="checkbox"/>
One or more hearing sessions	<input type="checkbox"/>
Site inspection	<input type="checkbox"/>
Assessment of review documents only, with no further procedure	<input checked="" type="checkbox"/>

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

7. Site inspection

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

Can the site be viewed entirely from public land?	<input type="checkbox"/>
Is it possible for the site to be accessed safely, and without barriers to entry?	<input checked="" type="checkbox"/>

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

8. Statement

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

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

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

Grounds of appeal in separate document.

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

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

9. List of Documents and Evidence

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

Appendices to the Grounds of Appeal in separate document.

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

10. Checklist

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

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

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

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

DECLARATION

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

Signature: Name: Date:

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

grant & geoghegan ltd.

Chartered Planning Development and Architectural Consultants

Unit 4 Westerton Road Business Centre
4 Westerton Road South
Keith AB55 5FH

T: 01343 556644
E: enquiries@ggmail.co.uk

Grounds of Appeal

Land at 65 Marleon Field, Elgin, Moray

Issue Date:
30th June 2019

CONTENTS

Executive Summary

1.0. Introduction

2.0. Background

3.0. The Proposal

4.0. The Site

5.0. Development Plan Context

6.0. Reasons for Refusal

7.0. Conclusion

Appendices – separate document:

Appendix 1: Decision Notice 19/00173/APP

Appendix 2: Circular 4/2009 – Development Management Procedure (Annex A)

Appendix 3: Moray Local Development Plan- Extracts

- Policy IMP1 Developer Requirements
- Policy T2 Provision of Access
- Policy T5 Parking Standards
- Policy PP1 Sustainable Economic Growth
- Policy DP1 (MLDP 2020)

Appendix 4: Scottish Planning Policy- Extracts

Appendix 5: Handling Report 18/00173/PPP

Executive Summary

Planning permission is sought for a change of use to incorporate an area of adjacent land into the residential curtilage of the subject property and a change of use to use one room (2.9m x 3.5m) within a new outbuilding (which does not need planning permission on its own) for use by the appellant as a Beauty Salon.

The application was refused on the basis that the proposal would have an undue impact upon neighbouring amenity. However, no objections have been received from neighbouring residents and this appeal statement is submitted in the knowledge that the proposed business would not generate more activity in and around the property than would be normal for a dwelling of this size and it is abundantly clear that the proposed use can take place without any detrimental impact upon the amenity of neighbours.

The appellant offers a specialised service to disabled clients and to clients with additional support needs meaning the relaxed domestic atmosphere of the property is exactly why the applicant wishes to offer these services from home. In this context, it would be to the detriment of the appellant's business model to compromise residential amenity.

It is respectfully submitted, when all matters are considered in the round, that the proposed use of one room in the building for a small scale, low key business use is fully in accordance with National and Local Planning Policy. There are many instances in Moray where small businesses of a similar scale and nature to that proposed, operate successfully from domestic properties without any undue impact upon neighbouring residential amenity. We have included a sample of such cases below which Members can refer to;

- 04/00124/FUL | Proposed erection of new hair dressing salon on | Garden Ground At 1 Chapel Street Findochty Buckie Banffshire AB56 2PX
- 07/02111/FUL | Change of use of existing shed to operate dog grooming business at | 61 Nelson Terrace Keith Moray AB55 5FD
- 14/01177/APP | Convert garden studio to craft home bakery at | Carsemoor Cottage Spey Bay Fochabers Moray IV32 7PJ
- 17/00840/APP | Erect cabin for beauty business in rear garden of | 11 Regency Road Buckie Moray AB56 1EE

The proposed development complies with all the relevant parts of lead policy IMP1 so it is respectfully asked that the appeal be allowed and planning permission granted. Member's will be aware that appropriately worded conditions can be imposed pertaining to the hours of operation, making the permission personal to the appellant, restricting the number of customers on the site at any one time and ensuring that a parking space is made available for customers at all times. Such conditions are routinely imposed in such circumstances and would be fully in accordance with the relevant circular tests.

1.0 Introduction

These grounds for review of a decision to refuse planning permission are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 16th of April 2019.

The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.0 Background

The application was made valid under reference 19/00173/APP on the 18th of February 2019 and was refused under the Councils Scheme of Delegation by the case officer on the 16th of April 2019. The reasons for refusal (Appendix 1) state that;

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area, contrary to policy IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policy DP1).

3.0 The Proposal

The proposal is for a change of use to incorporate an area of adjacent land into the residential curtilage of the property. The appellant proposes to build a summerhouse on this extended garden ground (10.9m x 4.2m x 2.7m high) - it should be noted that this structure on its own does not require planning permission. However, planning permission is sought by the appellant to use one room (2.9m x 3.5m) for small scale business use.

The appellant is an experienced beautician who proposes to use this room to offer services on an appointment only basis, Tuesday to Friday between 9.30am and 5pm. The appellant specialises in serving clients who have disabilities or learning difficulties so a move to a room at the subject property is sought with the express purpose of catering more specifically to the individual needs of her clients.

The room is for the sole use of the appellant and there would no additional employees. The business would serve up to 15 clients per week. There is space for 3 cars to the front of the property and the appellant proposes to leave a minimum of 15 minutes between appointments to ensure no traffic issues arise

4.0 The Site

The subject site comprises an area of amenity land to the rear of a modern semi-detached house, the same width of the plot and protruding by approximately 13.5 metres. The existing garden is bounded by a 1.8m wooden fence and it is proposed to extend that around the land referred to in this case.

5.0 Development Plan Context

The Development Plan for Moray comprises the Moray Local Development Plan 2015 and its associated Supplementary Guidance. As stated by the appointed officer, following its approval by Committee, the Proposed Moray Local Development Plan 2020 is now considered to be the "settled view" of the Council however given its status, minimal weight can only be given to the provisions within the document.

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise. Scottish Government Circular 4/2009 (Appendix 2) describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

- Identify the provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well detailed wording of policies;
- Consider whether or not the proposal accords with the Development Plan,
- Identify and consider relevant material considerations for and against the proposal, and
- Assess whether these considerations warrant a departure from the Development Plan.

The provisions of the circular are important in the context of this application because the appellants consider the proposal to be in full accordance with the Development Plan and that there are no material considerations that would warrant the refusal of this application.

Moray Local Development Plan 2015

There are no policies which are specific to the proposal at hand. As a result, the lead policy in the assessment of this application is IMP1 (Appendix 3, page 8) which is essentially a list of material planning considerations. Relevant to this case is;

- the quality of development in terms of its siting, design and servicing (transport and drainage);
- whether the proposal is suitable in the context of the surrounding built and natural environment, and;
- that it does not result in any undue impact upon neighbouring amenity.

Policy T2 (Appendix 3, page 9) relates to the provision of safe and suitable access arrangements and policy T5 (Appendix 3, page 10) relates to the provision of appropriate parking to serve the proposed development.

Policy PP1 Sustainable Economic Growth (Appendix 3, page 11) of the Moray Local Development Plan supports development that helps diversify the economy of Moray, to enable population growth, increased employment and reduce dependency on public sector employment.

Moray Local Development Plan 2020

The appointed officer refers to policy DP1 (Appendix 3, page 12) in his deliberations and has therefore placed some weight on it in the decision making process. As such, it is of relevance to the consideration of the proposals by Member's.

This policy is essentially an updated version of IMP1; it sets out material planning considerations under 3 headings, “Design”, “Transportation” and “Water environment, pollution, contamination”. The matters set out in this policy echo that of IMP1, therefore no additional matters relevant to the assessment of this application are raised in reference to this policy.

National Planning Policy and Guidance

National Planning Policy and Guidance is a material planning consideration to be taken into account in the consideration of planning applications. It is set out in Scottish Planning Policy (SPP) and Planning Advice Notes (PAN's).

National Planning Framework 3

NPF3 is the spatial expression of the Government's Economic Strategy which seeks to support sustainable economic growth across the country. Principally, it supports the many and varied opportunities for planning to support business and employment and highlights the role a positive planning policy context can play in delivering economic benefits.

Scottish Planning Policy 2014 (Appendix 4)

Scottish Planning Policy (SPP) sets out the Scottish Governments overarching policy on land use planning. SPP advises that Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public, while protecting and enhancing natural and cultural resources. In this context, paragraph 95 of SPP states that Plans should encourage opportunities for home working.

6.0 Reason for Refusal

The reason for refusal states that *"the proposal is contrary to the provisions of the Moray Local Development Plan 2015 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area, contrary to policy IMP1"*.

There is no specific matter referred to in this reason for refusal so the implication by the appointed officer is that the introduction of a business use which attracts visiting members of the public could not operate within a domestic curtilage without an adverse impact upon the amenity of neighbouring residents.

In this context, it is important to note that the GPDO grants planning permission for the provision of a building of the scale and proportions proposed in this case within the curtilage of a dwellinghouse; but as Member's will be aware this permission is subject to a series of proviso's and only applies where the building is required for a purpose incidental to the enjoyment of the dwellinghouse. In this case, the outbuilding at the appeal site is to be erected partly to enable the appellant to transfer her Beautician business to her home.

At this point, it may be useful to clarify two points of planning law. First, that there are two main types of "development" defined by the Planning Act. One is operational development, such as the erection of a building; the other is making a material change of use of land. Second, when considering the use of land or buildings for the purposes of planning law, a key matter which has to be considered is the definition of the "planning unit".

Put simply as an illustration, the use of a vegetable plot in a typical domestic garden of a house is not "agricultural" for planning purposes – it is residential, because it is part and parcel of a unit of which the primary use is residential. The planning unit in this case is the whole of the property at 65 Marleon Field i.e. the outbuilding is in the same occupation as the dwelling and is part of the same planning unit. The use of one small room within a predominantly domestic outbuilding to serve a small number of customers per day/ week would be commensurate to the activity one would expect at a residential property and thereby reasonable to suggest that such activity would be incidental to the primary use of the planning unit as a whole.

In this context, the appellant respectfully asks Members to note that small businesses of a similar scale and nature to that proposed in this case operate from homes all over the country without any undue impact on neighbouring properties or residents. We have provided a few examples below which have been approved in Moray over the years;

- 04/00124/FUL | Proposed erection of new hair dressing salon on | Garden Ground At 1 Chapel Street Findochty Buckie Banffshire AB56 2PX
- 07/02111/FUL | Change of use of existing shed to operate dog grooming business at | 61 Nelson Terrace Keith Moray AB55 5FD

- 14/01177/APP | Convert garden studio to craft home bakery at | Carsemoor Cottage Spey Bay Fochabers Moray IV32 7PJ
- 17/00840/APP | Erect cabin for beauty business in rear garden of | 11 Regency Road Buckie Moray AB56 1EE

It is clear that the implication in the reason for refusal, that a business use which involves visiting members of the public in a domestic curtilage is unacceptable on the basis of general amenity, is fundamentally flawed. The reason for refusing planning permission lacks sufficient detail relating to a specific area of concern and is therefore considered to lack precision.

We would respectfully ask that Members consider the proposal on its individual merits. The test in planning terms relates to whether the addition of a small scale business use causes such disturbance as to adversely change the domestic character of the property. Although there is insufficient detail in the reason for refusal, the Officer does refer to the potential “planning consequences” that led to this application being refused in his report (Appendix 5, page 16) i.e. *“...consideration must be given to the principle of the erection of the proposed business unit. The proposed use by its own nature will result in activity of customers coming and going (be it through the house or via the side) to access the rear of a house. This activity is not a typical use that would be found in the rear garden of a house in a residential area and it is considered that it, if permitted, would result in an adverse impact on the amenity of neighbouring properties in terms of privacy. Accordingly, the general principle of the proposed building for business use is not acceptable and considered to be contrary to policy IMP1, due to its adverse impact on the amenity of the surrounding area.”*

In summary, the officer concludes that there would be an undue impact upon privacy, specifically, as a result of customers arriving and departing the property. We would strongly contend that this conclusion lacks any basis in fact and that a small scale, low key use such as this can operate with no significant impact upon the privacy of neighbouring residents.

The first thing to note is that the appellant’s neighbours are in full support of the proposals and Member’s will note that no letters of objection were received. The appellant contacted the Planning Authority to seek advice on whether the proposed activity needed planning permission- the submission of an application was not the result of Enforcement action.

The proposed use would involve a maximum of 15 clients per week- an average of less than 4 a day. The appellant has stated her intention to leave a minimum of 15 minutes between clients’ to ensure that only one client will be at the property at any one time. It is clear then that the proposed level of activity is not over and above the movements one would expect to see at a typical dwelling and that the additional movements would be of no consequence in planning terms.

The next matter is the suitability of the property to accommodate this use. As stated, planning permission is sought to extend the domestic curtilage of the property thereby providing ample space to construct a building of the dimensions proposed. In fact, as stated, the structure itself would not need planning permission on its own. The subject property benefits from two parking spaces (and a third in the garage) and one parking space would always be left free for client’s to ensure that there would be no on street parking and thereby no impact upon road safety.

On privacy specifically, as raised by the officer in his report, Member’s will note that a 1.8 metre high wooden fence currently bounds the property which means that views into the site are restricted. Further, the proposed building is of single storey construction and orientated in such a way that means there are no direct views between its windows and the windows of neighbouring properties. The nature of the business means that amplified music will not be played and in any case, the business would not operate out with normal working hours so an undue, unacceptable impact upon neighbouring amenity in regard to privacy, overlooking, prejudice to sunlight/ daylight will not arise.

On this basis, we would contend that the activity proposed will not be at a level that would have a detrimental impact on the amenity of neighbours, with particular regard to privacy.

8.0 Conclusion

This appeal statement is submitted in the knowledge that the proposed business would not generate more activity in and around the property than would be normal for a dwelling of this size and it is abundantly clear that the proposed use can take place without any detrimental impact upon the amenity of neighbours.

The reason for this proposal is quite clear; the relaxed domestic atmosphere of the property is exactly why the applicant wishes to offer these services from home. In this context, it is abundantly clear that the appellant's business model would not compromise residential amenity and that the Officer's reasons for refusing this application are fundamentally flawed. It is unfortunate that sufficient weight was not given to the nature of the business in the decision making process.

It is respectfully submitted, when all matters are considered in the round, that the proposed use of one room in the building for a small scale, low key business use, which specifically serves client's with additional needs, is fully in accordance with National and Local Planning Policy. The appointed officer does not list policy PP1 Sustainable Economic Growth in the report as relevant to this application however; we would submit that appropriate weight must be given to the contribution the proposed business will make to the Moray Economy. Evidently, it will not have an enormous turnover but it does provide a specialist service to a small proportion of the Moray population in a way that accords with the spirit of the Moray Economic Strategy.

Further, the proposed development complies with all the relevant parts of IMP1 so it is respectfully asked that the appeal should be allowed and planning permission granted. Member's will be aware that appropriately worded conditions can be imposed pertaining to the hours of operation, making the permission personal to the appellant, restricting the number of customers on the site at any one time and ensuring that a parking space is made available for customers at all times. Such conditions are routinely imposed in such circumstances and would be fully in accordance with the relevant circular tests. The appellant welcomes the imposition of appropriately worded conditions in these regards.

grant & geoghegan ltd.

Chartered Planning Development and Architectural Consultants

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Keith AB55 5FH

T: 01343 556644
E: enquiries@ggmail.co.uk

Grounds of Appeal- Appendices

Land at 65 Marleon Field, Elgin, Moray

Issue Date:
30th June 2019

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

REFUSAL OF PLANNING PERMISSION

**[Elgin City North]
Application for Planning Permission**

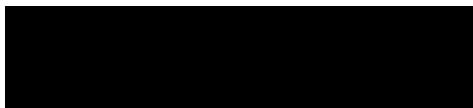
TO Ms Laura Mackay
c/o Grant And Geoghegan Limited
Unit 4
Westerton Road Business Centre
4 Westerton Road South
Keith
AB55 5FH

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

Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field Elgin Moray IV30 4GE

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

Date of Notice: **16 April 2019**



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

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area, contrary to policy IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policy DP1).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
014/0840/P-1		Fence details site and location plan
014/0840/P-2		Elevations and floor plans

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

N/A

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

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



ANNEX A

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan,
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - a proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance
 - Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - a National Park Plan
 - the National Waste Management Plan
 - community plans
 - the environmental impact of the proposal
 - the design of the proposed development and its relationship to its surroundings
 - access, provision of infrastructure and planning history of the site
 - views of statutory and other consultees
 - legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

Policy IMP1 Developer Requirements

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

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

Justification

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

Policy T2**PROVISION OF ACCESS**

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

Justification

Policy supports the creation of sustainable communities accessible by a range of transport modes including viable alternatives to private vehicles. Pedestrian movement, cycling and public transport routes will be a priority. At the early design stages consideration should be given to the likely desire routes (public transport, schools, and facilities) which shall inform the layout and design of the development. Inclusion of aspirational core paths and active travel audit proposals will provide new links that have a focus on facilitating active travel and sustainable transport helping to maximise new development's accessibility and connections to existing networks and facilities.

The street design guidance within Designing Streets can be used as a material consideration in determining applications. Proposals must incorporate the principles of "Designing Streets" and the Council's supplementary guidance "People and Places – A design Guide for Moray". Consideration should also be given to any active travel audits in place. For smaller developments in the countryside the Council's guidance "Transportation Requirements in Small Developments in Rural Parts of Moray" should be considered. The Planning Authority will be realistic about the likely availability of public transport services in rural areas. Innovative solutions such as demand responsive public transport and small scale park and ride facilities at nodes on bus corridors are encouraged to reduce travel demands by private vehicles.

Continued on next page.

Policy T5**PARKING STANDARDS**

Proposals for development must conform with the Council's current policy on parking standards.

Justification

The application of parking standards related to development assists in the implementation of appropriate traffic management, and in the availability of on-street car parking provision. The standards specify where there is scope to provide commuted payments as an alternative to parking on site, as well as the need for parking for commercial vehicles.

Primary Policies

The Primary Policies reflect the priorities set out in Scottish Planning Policy and the objectives of the Council. These policies will be applied to all development proposals and used with the more detailed policies set out within the relevant sections to determine planning proposals.

The primary policies aim to support the Scottish Government's aims in terms of sustainable economic growth, climate change and placemaking.

PP1 Sustainable Economic Growth

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

Justification:

The Moray Economic Strategy provides a long term strategy to influence decision makers in addressing the challenges in diversifying the economy of Moray. This includes the objectives for growth and inward investment in higher paid employment, to reduce the outmigration of young people and to reduce any dependency on public sector employment including the defence sector.

The aims of the strategy are to deliver population growth, create 5,000 jobs and raise earnings to above the Scottish average. The Strategy includes an Action Programme which identifies a programme of projects and enabling actions with a focus on improving regional infrastructure including, road, rail and air and broadband connectivity, opportunities to grow and diversify the economy in the sectors of life sciences, engineering, energy, food and drink and tourism. The Strategy and Action Programme also support the reinforcement of Elgin as a regional centre through the Elgin City for the Future Masterplan to support the towns of Buckie, Forres, Keith and Lossiemouth and the settlements of Speyside.

The aims of this policy must be balanced with the need to safeguard Moray's natural and built environment.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EPS and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained.

Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.



avoid development in areas at risk. Where appropriate, development plans should identify areas at risk and areas where a managed realignment of the coast would be beneficial.

89. Plans should identify areas of largely developed coast that are a major focus of economic or recreational activity that are likely to be suitable for further development; areas subject to significant constraints; and largely unspoiled areas of the coast that are generally unsuitable for development. It should be explained that this broad division does not exclude important local variations, for example where there are areas of environmental importance within developed estuaries, or necessary developments within the largely unspoiled coast where there is a specific locational need, for example for defence purposes, tourism developments of special significance, or essential onshore developments connected with offshore energy projects or (where appropriate) aquaculture.

90. Plans should promote the developed coast as the focus of developments requiring a coastal location or which contribute to the economic regeneration or well-being of communities whose livelihood is dependent on marine or coastal activities. They should provide for the development requirements of uses requiring a coastal location, including ports and harbours, tourism and recreation, fish farming, land-based development associated with offshore energy projects and specific defence establishments.

91. Plans should safeguard unspoiled sections of coast which possess special environmental or cultural qualities, such as wild land. The economic value of these areas should be considered and maximised, provided that environmental impact issues can be satisfactorily addressed.

Supporting Business and Employment

NPF Context

92. NPF3 supports the many and varied opportunities for planning to support business and employment. These range from a focus on the role of cities as key drivers of our economy, to the continuing need for diversification of our rural economy to strengthen communities and retain young people in remote areas. Planning should address the development requirements of businesses and enable key opportunities for investment to be realised. It can support sustainable economic growth by providing a positive policy context for development that delivers economic benefits.

Policy Principles

93. The planning system should:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- give due weight to net economic benefit of proposed development.

Key Documents

- [Government Economic Strategy](#)⁴²

⁴² www.scotland.gov.uk/Topics/Economy/EconomicStrategy

- [Tourism Development Framework for Scotland](#)⁴³
- [A Guide to Development Viability](#)⁴⁴

Delivery

Development Planning

94. Plans should align with relevant local economic strategies. These will help planning authorities to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:

- energy;
- life sciences, universities and the creative industries;
- tourism and the food and drink sector;
- financial and business services.

95. Plans should encourage opportunities for home-working, live-work units, micro-businesses and community hubs.

96. Development plans should support opportunities for integrating efficient energy and waste innovations within business environments. Industry stakeholders should engage with planning authorities to help facilitate co-location, as set out in paragraph 179.

97. Strategic development plan policies should reflect a robust evidence base in relation to the existing principal economic characteristics of their areas, and any anticipated change in these.

98. Strategic development plans should identify an appropriate range of locations for significant business clusters. This could include sites identified in the [National Renewables Infrastructure Plan](#)⁴⁵, [Enterprise Areas](#)⁴⁶, business parks, science parks, large and medium-sized industrial sites and high amenity sites.

99. Strategic development plans and local development plans outwith SDP areas should identify any nationally important clusters of industries [handling hazardous substances](#) within their areas and safeguard them from development which, either on its own or in combination with other development, would compromise their continued operation or growth potential. This is in the context of the wider statutory requirements in the Town and Country Planning (Development Planning) (Scotland) Regulations 2009⁴⁷ to have regard to the need to maintain appropriate distances between sites with hazardous substances and areas where the public are likely to be present and areas of particular natural sensitivity or interest.

100. Development plans should be informed by the Tourism Development Framework for Scotland in order to maximise the sustainable growth of regional and local visitor economies. Strategic development plans should identify and safeguard any nationally or regionally important locations for tourism or recreation development within their areas.

⁴³ www.visitscotland.org/pdf/Tourism%20Development%20Framework%20-%20FINAL.pdf

⁴⁴ www.scotland.gov.uk/Resource/Doc/212607/0109620.pdf

⁴⁵ www.scottish-enterprise.com/~media/SE/Resources/Documents/Sectors/Energy/energy-renewables-reports/National-renewables-infrastructure-plan.ashx

⁴⁶ www.scotland.gov.uk/Topics/Economy/EconomicStrategy/Enterprise-Areas

⁴⁷ These statutory requirements are due to be amended in 2015 as part of the implementation of Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances.

REPORT OF HANDLING

Ref No:	19/00173/APP	Officer:	Andrew Miller
Proposal Description/ Address	Change of use of amenity land to garden ground and erect summer house/work room and shed at 65 Marleon Field Elgin Moray IV30 4GE		
Date:	16/04/19	Typist Initials:	FJA

RECOMMENDATION

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
Moray Flood Risk Management	12/04/19	No objections.
Contaminated Land	21/02/19	No objections.
Environmental Health Manager	21/02/19	No objections.
Transportation Manager	07/03/19	No objection subject to conditions relation to parking and access.
Building Standards Manager	21/02/19	Building Warrant required.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
EP5: Sustainable Urban Drainage Systems	N	
EP10: Foul Drainage	N	
T5: Parking Standards	N	
IMP1: Developer Requirements	Y	
DP1 Development Principles	Y	

REPRESENTATIONS

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

Comments (PO):

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require applications for planning permission to be determined in accordance with the development plan (i.e. the Moray Local Development Plan 2015 (MLDP)) unless material considerations indicate otherwise.

On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

The main planning issues are considered below.

Site

The site comprises a modern semi-detached house and an area of amenity space to the rear of the house, the same width of the plot and protruding by approximately 13.5 metres.

Proposal

Consent is sought for the change of use of the area of ground to the rear of the house to incorporate it into its curtilage, and the erection of a single storey building on the extended garden ground. The building would be used as a beautician's salon, and would incorporate a domestic summer house and shed. It would measure 10.9 x 4.2 metres (approx.), reaching a height of 2.7 metres with a very shallow mono-pitch roof, finished in white render to the walls and grey metal sheeting to the roof. The extended garden ground would be enclosed by a 1.8 metre high timber slatted fence. The area to the front of the existing house would be converted to parking and hardsurfacing would be provided to the rear of the property - whilst these are shown on the plans they do not require planning consent under permitted development rights.

Supporting information provided with the application identifies that the beauticians would be run by the occupant of the house with no additional employees. It is proposed that it would operate on an appointment only basis, 9.30am - 5pm Tuesday to Friday.

Principle

The proposed extension of the garden ground of the house into the area of amenity space is considered to be suitable - a number of properties in the area have undertaken this. The resultant plot would follow the width of the existing house plot, and would not result in the loss of valued amenity space (at the time of this application it was overgrown and unkempt).

However, consideration must be given to the principle of the erection of the proposed business unit. The proposed use by its own nature will result in activity of customers coming and going (be it through the house or via the side) to access the rear of a house. This activity is not a typical use that would be found in the rear garden of a house in a residential area and it is considered that it, if permitted, would result in an adverse impact on the amenity of neighbouring properties in terms of privacy. Accordingly, the general principle of the proposed building for business use is not acceptable and considered to be contrary to policy IMP1, due to its adverse impact on the amenity of the surrounding area.

Design and Siting

The proposed building would be relatively large and of simple design and finishes. Whilst this design is basic and its scale relatively large (almost a similar length as the house itself), the building alone would not require consent were it for domestic use and located within the curtilage of the house that is proposed (i.e. extended). On this basis, the proposed building is considered to be suitable in terms of its design and siting.

Parking and Access

Sufficient parking can be provided to the front of the house, in line with the requirements of policy T5. It is noted the Transportation Manager raised no objection to the proposal, subject to conditions in relation to the provision of parking spaces to the front.

Drainage

The unit would connect to the public water/sewerage supply. This is acceptable, satisfying policy EP10. With regard to surface water drainage, a drainage statement provided with the application details the proposed use of a surface water soakaway for the proposed building. This found that the ground conditions are suitable for the proposed arrangement, with Moray Flood Risk Management raising no objection to the proposed scheme. As such there is no conflict with policy EP5.

Recommendation

Refusal is recommended.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

HISTORY

Reference No.	Description			
18/01230/ID	Erect log cabin in rear garden to operate as beauty room at 65 Marleon Field Elgin Moray IV30 4GE			
	Decision	Planning Permission Required	Date Of Decision	17/10/18

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises	21/03/19	
PINS	No Premises	21/03/19	

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:	Supporting Statement	
Main Issues:	Email received 07/04/19 outlining proposed operation of business.	
Document Name:	Drainage Report	
Main Issues:	Outlines proposed drainage arrangement for the proposed unit.	

S.75 AGREEMENT

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

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

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