



MORAY LOCAL REVIEW BODY

16 FEBRUARY 2023

SUMMARY OF INFORMATION FOR CASE No LR285

Planning Application 22/00327/APP – Change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie

Ward 3 - Buckie

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 26 September 2022 on the grounds that:

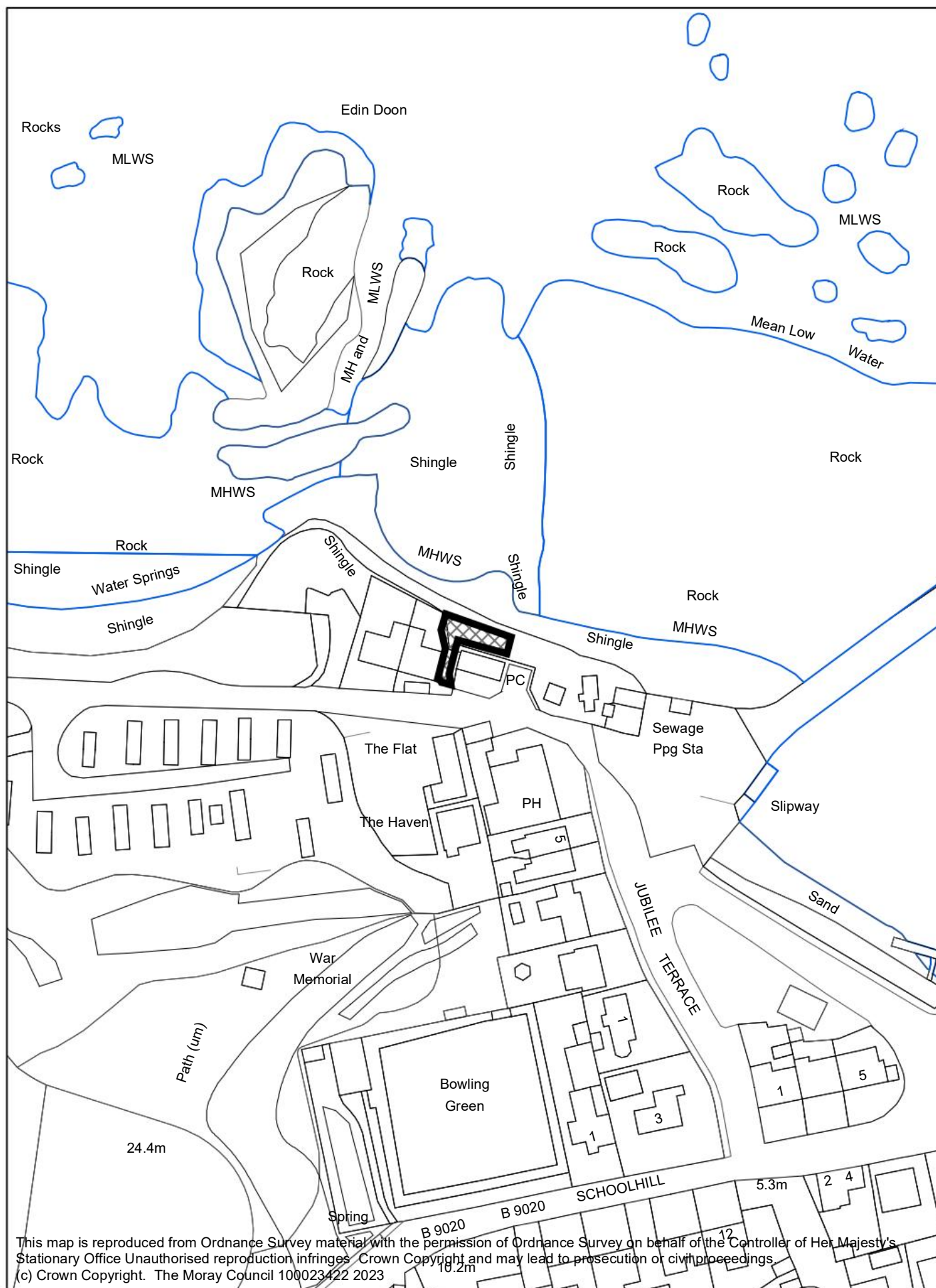
The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:

1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.
2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.

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

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

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





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 100540448-001

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

Type of Application

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

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

Description of Proposal

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

Change of Use of amenity land to garden ground at Jubilee Terrace, Findochty, Buckie

Is this a temporary permission? *

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Grant and Geoghegan Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	Grant Lodge
Last Name: *	Grant	Building Number:	
Telephone Number: *	07769744332	Address 1 (Street): *	Birnie
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	ELGIN
Fax Number:		Country: *	Scotland
		Postcode: *	IV30 8SW
Email Address: *	neil@ggmail.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	per grant and geoghegan
First Name: *	John	Building Number:	
Last Name: *	Gardiner	Address 1 (Street): *	Grant Lodge
Company/Organisation		Address 2:	Birnie
Telephone Number: *		Town/City: *	ELGIN
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 8SW
Fax Number:			
Email Address: *	neil@ggmail.co.uk		

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Ground at Jubilee Terrace, Findochty

Northing

867982

Easting

345954

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

113.12

Please state the measurement type used:

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

Existing Use

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

Amenity land

Access and Parking

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

☐ Yes ☒ No

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

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

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

Existing

Residential Units Including Conversion

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

☐ Yes ☒ No

All Types of Non Housing Development – Proposed New Floorspace

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

☐ Yes ☒ No

Schedule 3 Development

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

☐ Yes ☒ No ☐ Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Neil Grant

On behalf of: Mr John Gardiner

Date: 03/03/2022

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

- ☒ Site Layout Plan or Block plan.
☐ Elevations.
☐ Floor plans.
☐ Cross sections.
☐ Roof plan.
☐ Master Plan/Framework Plan.
☐ Landscape plan.
☐ Photographs and/or photomontages.
☐ Other.

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

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

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

Declare – For Application to Planning Authority

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

Declaration Name: Mr Neil Grant

Declaration Date: 02/03/2022

Payment Details

Cheque: X, X

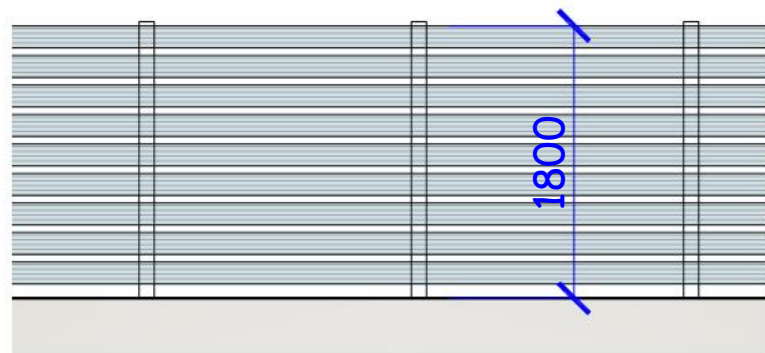
Created: 03/03/2022 09:53

indicates area of extended pathway, finish to match existing

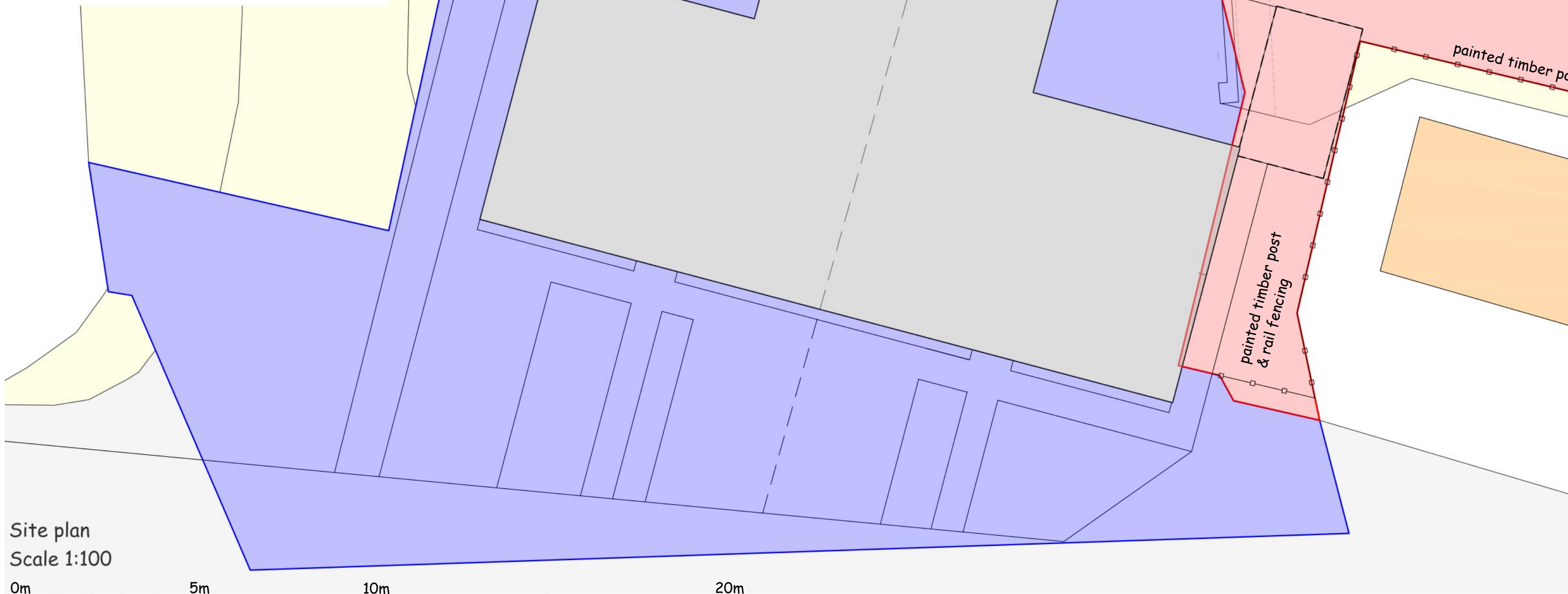
indicates area of land currently owned by applicant

indicates additional land purchased by applicant for which permission is sought

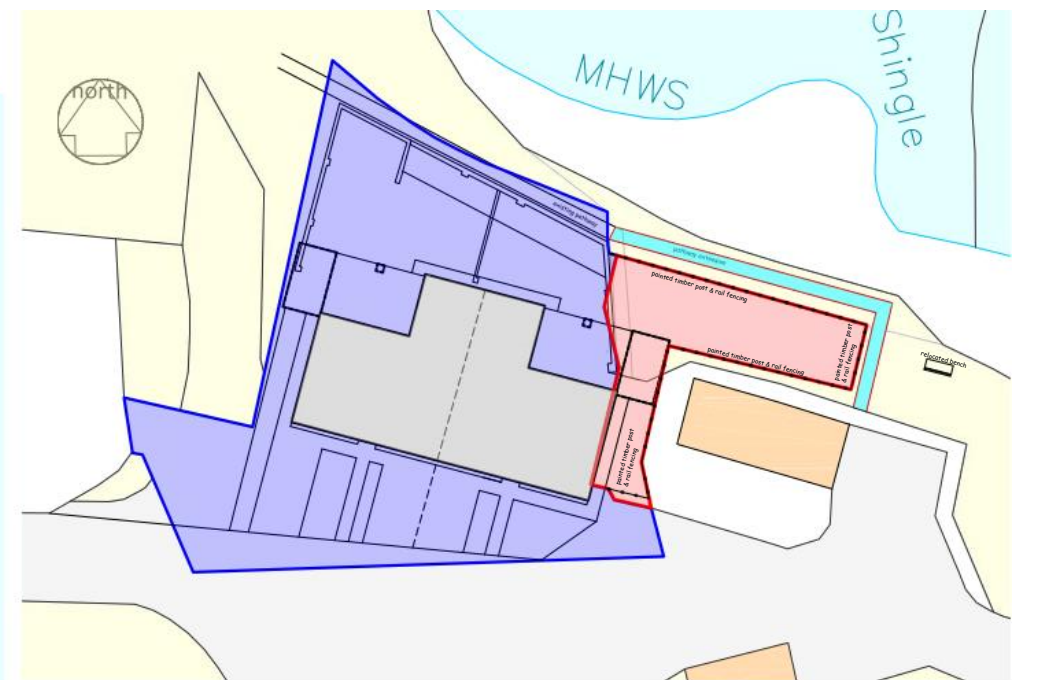
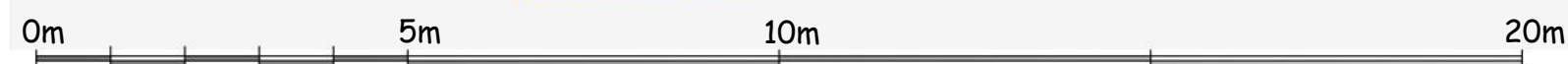
indicates new post and rail fencing to 1.8m maximum height.



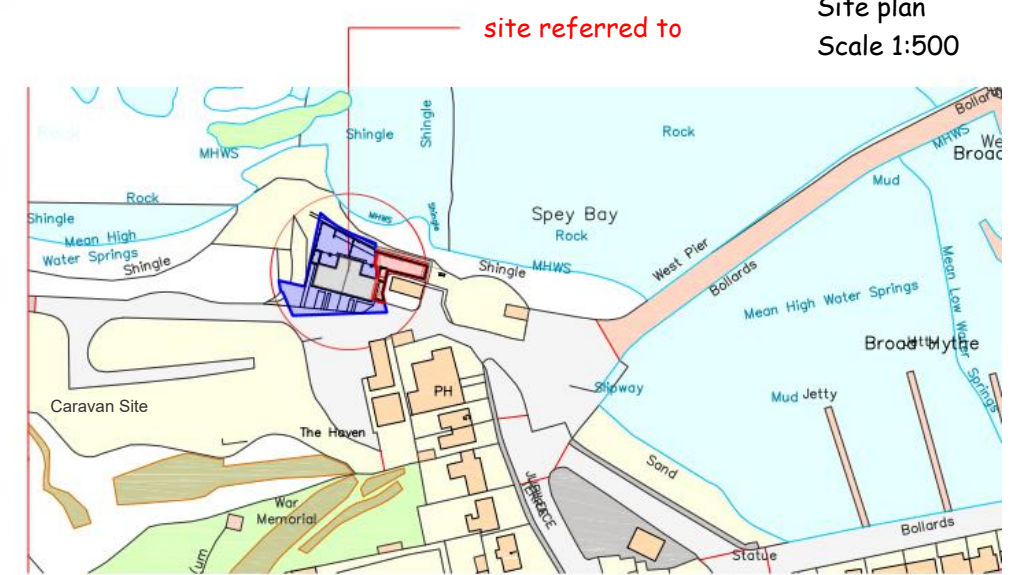
post & rail fence painted to match existing 1:50



Site plan
Scale 1:100



Site plan
Scale 1:500



Location plan
Scale 1:2500

pathway extension

painted timber post & rail fencing

painted timber post & rail fencing

painted timber post & rail fencing

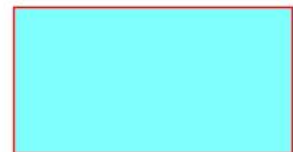



painted timber post & rail fencing

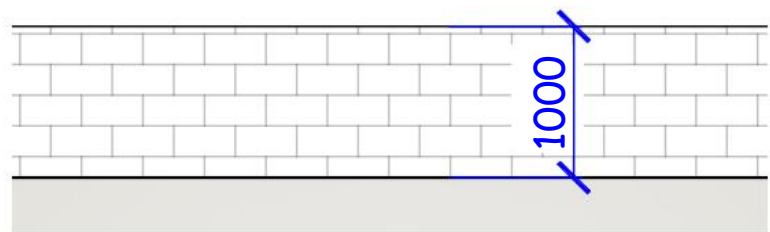
grant and
geoghegan
planning, development and
architectural consultants

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

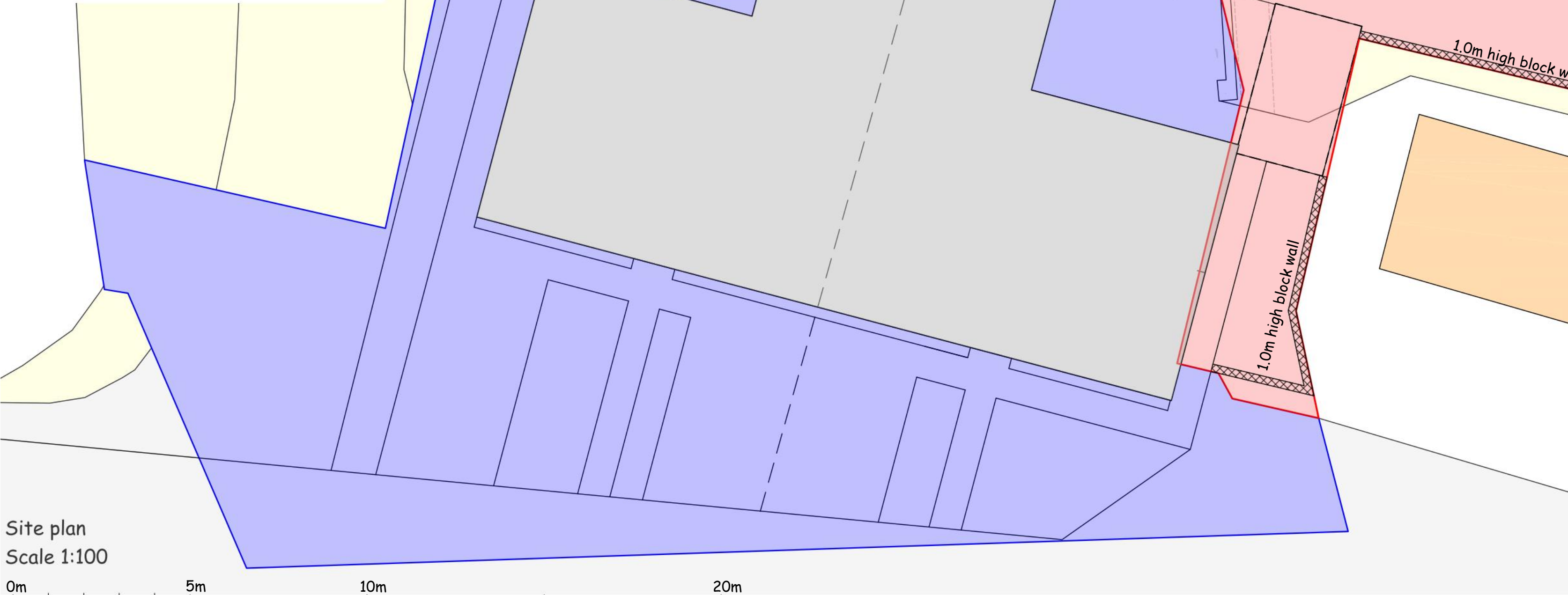
Change of Use of Ground at
Jubilee Terrace, Findochty

Drawing Title	Drawing No.
Site Plan	17/003/PP01
Scale @ A2	Date
1:100	Feb 2022

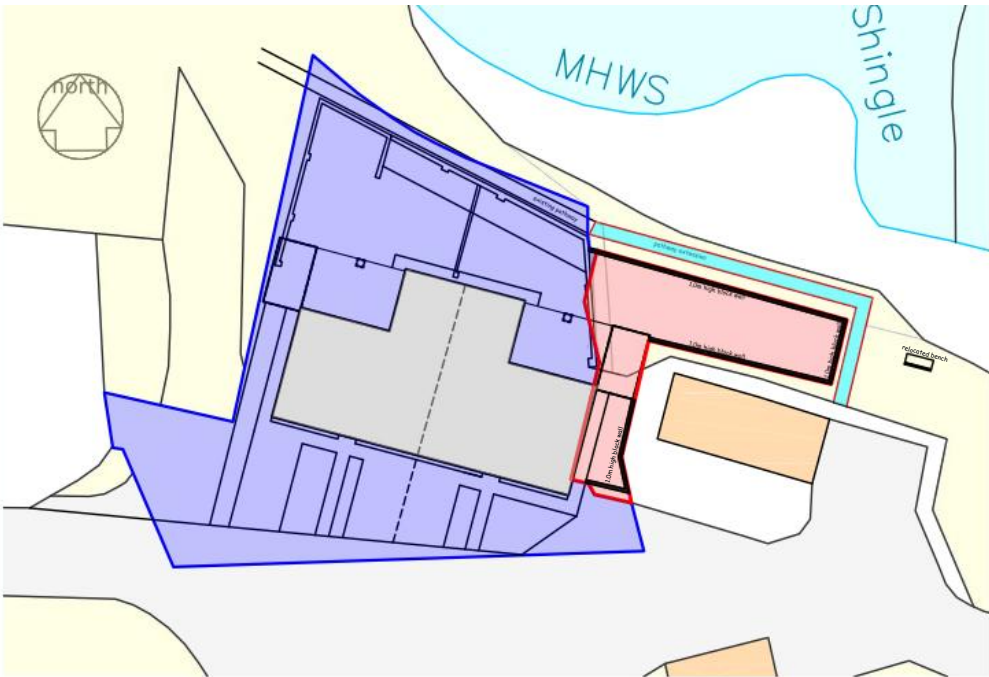
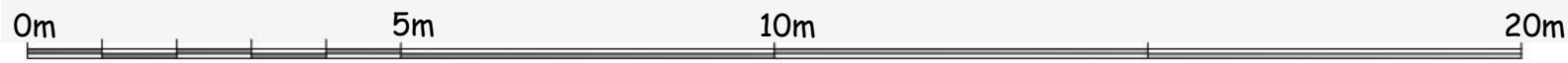
-  indicates area of extended pathway, finish to match existing
-  indicates area of land currently owned by applicant
-  indicates additional land purchased by applicant for which permission is sought
-  indicates new blockwork wall to 1.0m maximum height.



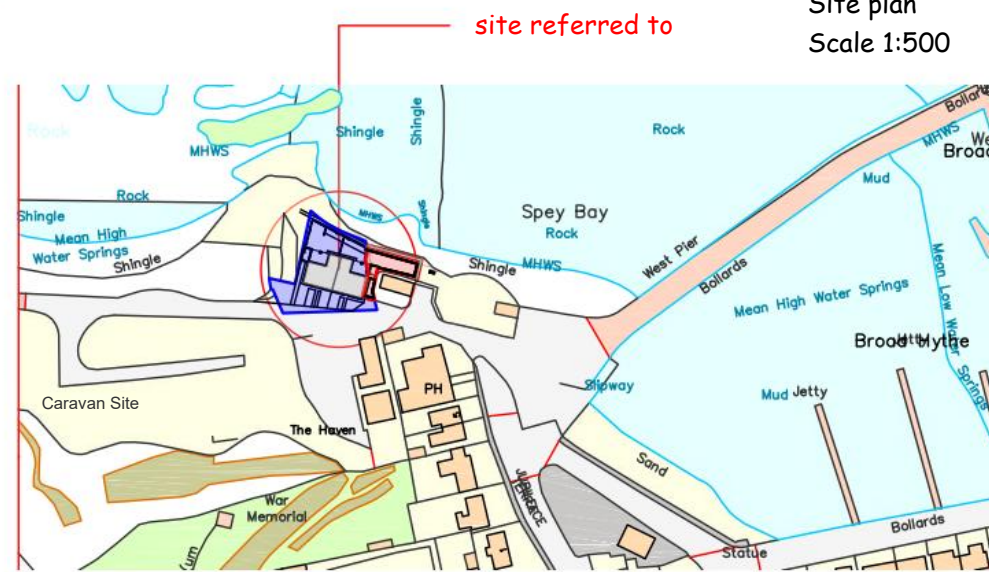
1.0m height block wall to match existing 1:50



Site plan
Scale 1:100



Site plan
Scale 1:500



Location plan
Scale 1:2500

grant and
geoghegan
planning, development and
architectural consultants

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

Change of Use of Ground at
Jubilee Terrace, Findochty

Drawing Title	Drawing No.
Site Plan	17/003/PP01 - Rev A
Scale @ A2	Date
1:100	Feb 2022

Consultee Comments for Planning Application 22/00327/APP

Application Summary

Application Number: 22/00327/APP

Address: Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA

Proposal: Change of Use of amenity land to garden ground at

Case Officer: Iain T Drummond

Consultee Details

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

Comments

Approved unconditionally from Adrian Muscutt (23/3/22).

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	29th March 2022
Planning Authority Reference	22/00327/APP
Nature of Proposal (Description)	Change of Use of amenity land to garden ground at
Site	Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA
Site Postcode	N/A
Site Gazetteer UPRN	000133072693
Proposal Location Easting	345985
Proposal Location Northing	867970
Area of application site (M²)	113
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=R87KS6BGLS000
Previous Application	21/01372/DCG
Date of Consultation	15th March 2022
Is this a re-consultation of an existing application?	No
Applicant Name	Mr John Gardiner
Applicant Organisation Name	
Applicant Address	Per Agent
Agent Name	Grant And Geoghegan Limited
Agent Organisation Name	
Agent Address	Grant Lodge Birnie Elgin Moray IV30 8SW
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@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: Estates, Central Services

Planning Application Ref. No: 22/00327/APP

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty
Buckie for Mr John Gardiner**

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

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<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 | X |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Application is in relation to Garden Ground disposal of Council ground, currently being handled by Estates. As such, Estates have no objection to this proposal.

Further information required to consider the application

Contact: Cameron Queen

email address: Cameron.queen@moray.gov.uk

Consultee: Estates

Date.....15/03/2022.....

Phone No 07922436400.....

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.

**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management

Planning Application Ref. No: 22/00327/APP

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

- | | Please
x |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
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| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Contact: James Ross Date 18/05/2022

email address: James.ross@moray.gov.uk Phone No

Consultee: The Moray Council, Flood Risk Management

Consultation Request Notification – Strategic Planning & Development

Planning Authority Name	Moray Council
Response Date	29th March 2022
Planning Authority Reference	22/00327/APP
Nature of Proposal (Description)	Change of Use of amenity land to garden ground at
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Applicant Address	Per Agent
Agent Name	Grant And Geoghegan Limited
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Agent Address	Grant Lodge Birnie Elgin Moray IV30 8SW
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

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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:-

PLEASE COMPLETE AND RETURN WITHIN 48 HOURS
to consultation.planning@moray.gov.uk

MORAY COUNCIL PLANNING CONSULTATION RESPONSE

From: Strategic Planning & Development

Planning Application Ref. No: 22/00327/APP

Change of Use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie for Mr John Gardiner

Ward: 03_17 Buckie

DETERMINATION - DEPARTURE FROM DEVELOPMENT PLAN

(For Structure/Local Plan Comment)

		Page No	Policy No(s)	Yes	No
1	Departure from Moray Local Development Plan 2020		PP3 <i>Infrastructure and Services</i>		X
			DP1 <i>Development Principles</i>		X
			EP3 <i>Special Landscape Areas and Landscape Character</i>	X	
			EP6 <i>Settlement Boundaries</i>	X	
			EP9 <i>Conservation Areas</i>		X
2	Further Discussion Required				

REASONING FOR THIS DECISION:

Policy PP3 *Infrastructure & Services*

Policy PP3 seeks to ensure development is planned and co-ordinated with infrastructure to enable places to function properly and are adequately serviced.

The northern boundary of the site is defined by The Moray Coastal Trail, which includes a path that passes through the western part of the site and connecting thereon to the public toilets. The development proposes to reroute the path around the northern and eastern boundaries of the site, maintaining a pathed access from the north to the toilet block. The proposal will therefore have no detrimental impact on existing public access rights, in compliance with Policy PP3

Policy DP1 *Development Principles*

Policy DP1 sets out detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.

The proposal seeks to convert an area of amenity ground into garden ground. The proposal is of an appropriate scale and character to the surrounding area. To reflect the sensitivities of the proposed site, the boundaries of the site will be defined by post & rail fencing to replicate the adjacent properties. The proposal therefore complies with DP1.

Policy EP3 *Special Landscape Areas and Landscape Character*

The proposed site is located wholly within Portgordon to Cullen Coast Special Landscape Area (SLA). Policy EP3 aims to protect landscapes from inappropriate development. Proposals must not prejudice the special qualities of the designated area, avoid adverse effects on the landscape and visual qualities and adopt the highest standards of design in accordance with Policy DP1 and other relevant policies.

As the majority of the proposal is outwith the settlement boundary of Findochty, the development is considered against the use criteria for rural areas as set out in Policy EP3 (i) (a). The proposal is not for any of the acceptable uses and therefore is a departure from Policy EP3.

The proposed use is however consistent with immediately adjacent properties, whose garden grounds are also outwith the settlement boundary. The development proposes to be bounded by post & rail fencing which reflects existing boundary treatments in the area. On the basis that the character of the proposal reflects the surrounding area and the development is located behind existing buildings and therefore sensitively sited and integrated into the landscape, the proposal is considered an acceptable departure from Policy EP3.

Policy EP6 *Settlement Boundaries*

The proposed site is largely immediately outwith the settlement boundary of Findochty. Policy EP6 seeks to guide development to identified settlements and rural groupings, preventing ribbon development and maintaining a clear distinction between the built-up area and the countryside. As the proposed site is not a designated LONG site, the development is contrary to Policy EP6.

For the reasons set out in Policy EP3 above, the proposal is considered an acceptable departure from Policy EP6.

Policy EP9 *Conservation Area*

The site is located within Findochty Conservation Area. Policy EP9 requires all development within a conservation area to preserve and enhance the established traditional character or appearance of the area.

The siting and proposed boundary treatments will not adversely affect the character and appearance of the conservation area and therefore complies with Policy EP9.

Conclusion

The development site is largely immediately outwith the settlement boundary of Findhochty and falls wholly within the Portgordon to Cullen Coast SLA, where the proposed use is not in compliance with policy. The proposal is therefore contrary to Policies EP3 and EP6.

However, the character of the proposal reflects the surrounding area which consists of a mix of amenity ground and garden ground. On the basis that the character of the proposal reflects the surrounding area and the development is located behind existing buildings and therefore sensitively sited and integrated into the landscape, the proposal is considered an acceptable departure from Policy EP3 and EP6.

The siting and proposed finishes will not adversely affect the character and appearance of Findhochty Conservation Area.

Contact: Darren Westmacott

Email Address: Darren.Westmacott@moray.gov.uk

Consultee: Strategic Planning & Development

Date: 03/05/2022

Phone No: N/A

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.

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Moray Access Manager

Planning Application Ref. No: 22/00327/APP

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace
Findochty Buckie for Mr John Gardiner**

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

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

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Ian M Douglas

email address: ian.douglas@moray.gov.uk

Date 15/03/2022.....

.....

Phone

7049.....

No

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	29th March 2022
Planning Authority Reference	22/00327/APP
Nature of Proposal (Description)	Change of Use of amenity land to garden ground at
Site	Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA
Site Postcode	N/A
Site Gazetteer UPRN	000133072693
Proposal Location Easting	345985
Proposal Location Northing	867970
Area of application site (M²)	113
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=R87KS6BGLS000
Previous Application	21/01372/DCG
Date of Consultation	15th March 2022
Is this a re-consultation of an existing application?	No
Applicant Name	Mr John Gardiner
Applicant Organisation Name	
Applicant Address	Per Agent
Agent Name	Grant And Geoghegan Limited
Agent Organisation Name	
Agent Address	Grant Lodge Birnie Elgin Moray IV30 8SW
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@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: 22/00327/APP

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty
Buckie for Mr John Gardiner**

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

Please

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

Transportation has no objections to the proposed change of use.

Further comment(s) to be passed to applicant

The developer should note that the site is located beyond the extents of the Public Road.

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

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

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

Contact: AG

Date 22 March 2022

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

Consultee: TRANSPORTATION

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

REPORT OF HANDLING

Ref No:	22/00327/APP	Officer:	Iain T Drummond
Proposal Description/ Address	Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty Buckie		
Date:	23.09.2022	Typist Initials:	LMC

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Strategic Planning And Development	03/05/22	Offered advice in relation to development plan policy
Moray Access Manager	15/03/22	No objections
Contaminated Land	25/03/22	No objections
Estates, Central Services	15/03/22	No objections
Transportation Manager	22/03/22	No objections
Moray Flood Risk Management	18/05/22	No objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP6 Settlement Boundaries	Y	
EP9 Conservation Areas	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

The Proposal

This application seeks planning permission for change of use of public open space to form private garden ground on land adjacent to Rockside, 8 Jubilee Terrace, Findochty.

The proposal also involved the erection of a 1m high block wall to enclose the garden space and provision of a footpath round the site to extend the existing informal footpath which runs through the site.

The site presently forms part of the grassy foreshore at Findochty, between the village and the beach. The applicant's house bounds the site to the west, with the public toilets to the south, remainder of open grassy area to the west and beach to the north.

The site lies within the Findochty conservation area, however, only a small proportion of the site lies within the Findochty settlement boundary (as defined by the 2020 Moray Local Development Plan (MLDP)), with the remainder lying immediately outwith the settlement. The site also lies within the Special Landscape Area again as defined by the MLDP 2020.

Appraisal

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

Principle, siting and design (EP9, EP3, EP6 and DP1)

Policies EP9, EP3 and DP1, require all new development to preserve and enhance the established character and appearance of the conservation area, to ensure that new development does not adversely affect the quality and experience of the Special Landscape Area and ensure proposals do not result in an adverse impact on the amenity of the surrounding area.

Policy EP6 also precludes any development immediately out with the settlement boundary, with the defined settlement boundary representing the limit to which any settlement can expand during the MLDP period.

In this case the site forms part of what is a well kept area of grass foreshore, which acts as a useful amenity space and transition between the village and the beach. Whilst it is accepted that the area of grass, which is the subject of this application, is hidden from many viewpoints by the public toilet, which lies immediately to the south, from wider viewpoints this portion of grassland is visible to the east and contributes to the character and setting of the foreshore of the Findochty conservation area.

At approx. 550sqm, this existing grassed area of open space is relatively small, however, it offers an attractive and useful area of amenity space, where people could sit and have picnics on the grass whilst also enjoying the beach. The proposal would result in the loss of approx. 110sqm of this grass area and although this is a relatively small area of land, it constitutes almost one fifth of the overall grass area and as such will inevitably result in a loss of useful public open space and have a detrimental impact on this area of Findochty, which acts as an attraction for tourist and offers valuable local amenity. Although the site lies behind the public toilets, which could be considered to detract from the value of the area, the toilet building offers a good source of shelter in this instance and views from behind the toilets across the beach are valued, which is demonstrated by the presence of the existing public bench to the rear of the toilet block building.

Whilst the applicants have amended to the proposals to show a 1m high boundary wall rather than a 2m high boundary fence, enclosing the area and using it for domestic garden purposes will result in the loss of an attractive area of public open space to the detriment of this area of Findochty.

In addition to the above, the proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary. Policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts outlined above, there is not considered to be any material planning considerations which would merit departing from policy EP6.

Conclusion

Overall for the reasons outlined above this proposed change of use is considered to have an adverse impact on the character and appearance of the conservation area in which it lies and the wider qualities of the Special Landscape Area. The proposal would also represent an unwarranted development immediately out with the settlement boundary and for these reasons the proposal, does not comply with MLDP policies EP9, EP3, EP6 and DP1.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
21/01372/DCG	Disposal of Council ground at Rockside 8 Jubilee Terrace Findochty Buckie Moray			
	Decision		Date Of Decision	

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Banffshire Advertiser and Herald	Planning application affecting LB/CA No Premises	11/04/22	
PINS	Planning application affecting LB/CA No Premises	11/04/22	

DEVELOPER CONTRIBUTIONS (PGU)

Status	None sought
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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?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

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

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



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

REFUSAL OF PLANNING PERMISSION

**[Buckie]
Application for Planning Permission**

TO

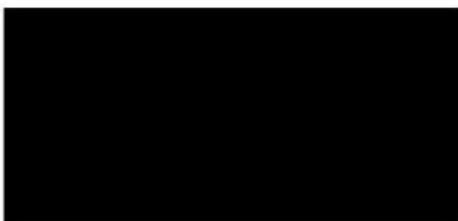


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty Buckie

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

Date of Notice: **26 September 2022**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

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

IMPORTANT

YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:

1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.
2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
17/003/PP01		Elevations site and location plan
17/003/PP01 A		Site plan

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

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

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



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

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

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

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

Use BLOCK CAPITALS if completing in manuscript

Applicant(s) Name: Mr J Gardiner

Agent (if any)

Address:

Name: Grant & Geoghegan

Address: Grant Lodge, Birnie, Elgin

Postcode

Postcode: IV30 8SW

Contact Telephone 1

Contact Telephone 1: 01343 556644

Contact Telephone 2

Contact Telephone 2:

Fax No

Fax No

E-mail*

E-mail: neil@ggmail.co.uk

Mark this box to confirm all contact should be
through this representative: X

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No
X ☐

Planning authority

Moray Council

Planning authority's application reference number

22/00327/APP

Site address

Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA

Description of proposed
development

Change of Use of amenity land to garden ground

Date of application

04/03/2022

Date of decision (if any)

26/09/2022

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

Nature of application

- | | |
|--|--------------------------|
| 1. Application for planning permission (including householder application) | X |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for seeking review

- | | |
|---|--------------------------|
| 1. Refusal of application by appointed officer | X |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

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

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

- | | |
|---|--------------------------|
| 1. Further written submissions | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> |
| 3. Site inspection | <input type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | X |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

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

- | | Yes | No |
|--|-----|--------------------------|
| 1. Can the site be viewed entirely from public land? | X | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | X | <input type="checkbox"/> |

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

Statement

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

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

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

Grounds of Appeal stated in separate document.

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

Yes No
☐ ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

We understand the refused plans will form part of the appeal papers which Member's will be able to draw on. No further information is required in this instance.

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

Checklist

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

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed Neil Grant

Date 23/12/2022

grant & geoghegan ltd.

Chartered Planning Development and Architectural Consultants

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

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

Grounds of Appeal

Rockside, 8 Jubilee terrace, Findochty, Buckie

Issue Date:
22nd December 2022

Executive Summary

These grounds for review relate to the modest extension of an existing residential curtilage at Rockside, 8 Jubilee Terrace, Findochty. It is the appellants position that: -

- The site is not subject to specific protection under Policy EP5 Open Space in respect of its contribution to the overall resource.
- It is a logical extension to an existing, domestic curtilage.
- When the quantity, quality, community value, accessibility and use of this land is considered in respect of the aims and objectives of open space provision, it is clear the land has no significant functional value.
- The close relationship of the land to the host property and the sensitive design of the proposals is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area, the surrounding landscape or the integrity of the settlement boundary.
- There have been no objections to the proposals from local residents.

Through the submission of these Grounds of Appeal, the appellants seek to demonstrate that insufficient weight was placed on the above in the decision-making process.

In this context, it is respectfully requested that the Local Review Body reconsider the decision to refuse planning permission.

CONTENTS

1.0. Introduction

2.0. The Proposal

3.0. Reason for Refusal

4.0. Grounds of Appeal

5.0. Conclusion

1.0 Introduction

These grounds for review of a decision to refuse planning permission for a change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed 3-month period from the refusal of permission dated the 26th of September 2022.

This appeal statement responds to the updated reasons for refusal and addresses 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 The Proposal

The development proposal involves the change of use of a small area of grassy foreshore (depicted in red below) to garden ground and the erection of a 1m high wall around the proposed site boundary.

The proposals have been designed to respect the open appearance of the site as much as possible. To this end, the proposed boundary treatment would be a wall constructed to a height of 1 metre and finished to match the existing 1-metre-high wall which bounds the host property.

The proposed development also includes the diversion of an existing informal footpath to a more suitable point of connection into the existing path/ road network of Findochty, to the other side of the public convenience building, a short distance to the east (shown in cyan below).

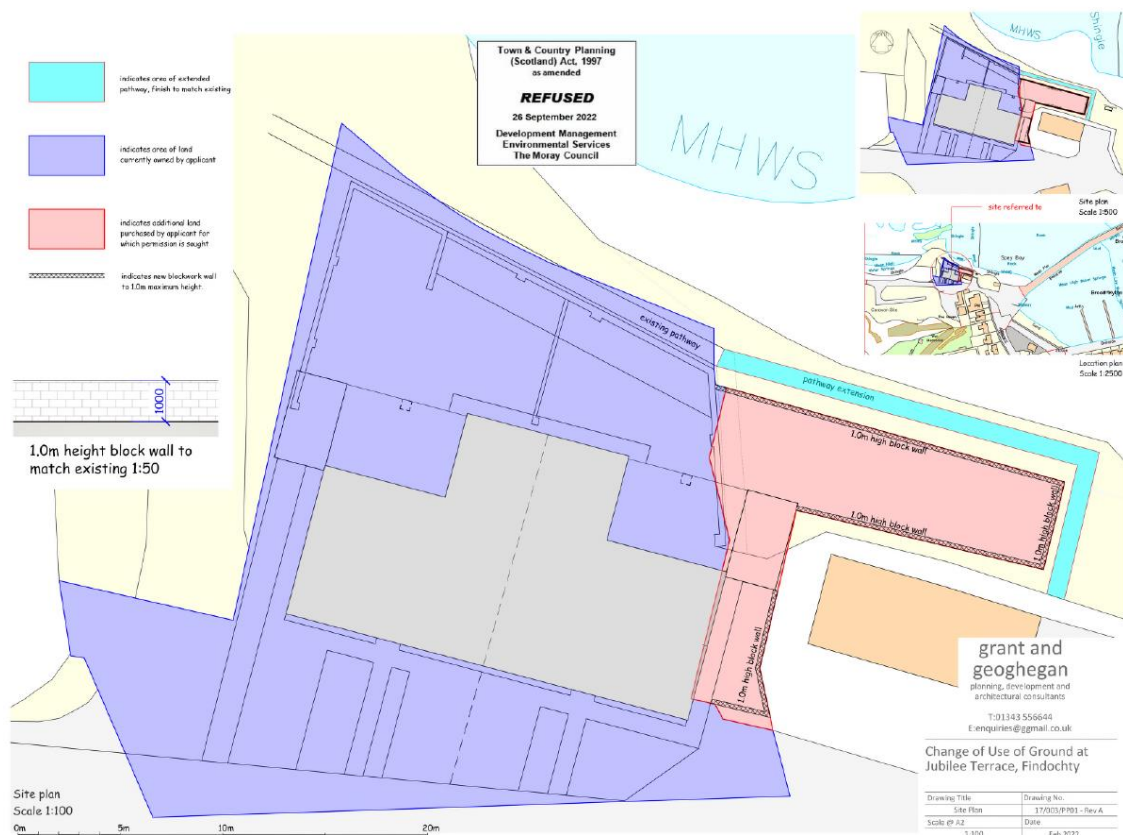


Fig: 1 - Site Layout Plan, refused by the Moray Council on the 26th of September 2022 under reference 22/00327/APP

3.0 Reasons for Refusal

The reasons for refusal state that: -

'The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:

- 1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.*
- 2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.'*

4.0 Grounds of Appeal

The first reason for refusal describes the area as *'distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area'*. On this basis, the appointed Officer concludes that *'it's loss would have an adverse impact on the amenity, character and appearance of the conservation area....and the qualities of the wider landscape area'*.

The main issue in terms of the assessment of the proposed scheme is not necessarily the appearance of the wall or the use of the land as garden ground (which is a relatively inoffensive form of development in this context), but rather the potential impact that such a proposal would have in terms of altering the use, function and appearance of the land in its current form.

An attempt has therefore been made to assess the significance of the proposed land in terms of its value as a community resource and its contribution to the visual appearance of its locality and the wider area to establish the potential impact of the proposed development on the community and the character of the area as a whole.

Members will note that the residential area in this part of Findochty is well connected to and served by a variety of formal and informal open spaces and areas in the form of public parks, playspace and sports areas, a considerable portion of which are located within a 250-metre radius of the development site. These areas are covered by an ENV4 (Sports Areas) and ENV 6 (Natural/ Semi-Natural Greenspace) designation, which are both protected in guidance contained within parent policy EP5 Open Space. In assessing the principle of development, it is important to note that the subject site and its immediate surrounds are not covered by any specific protection through this policy.

When assessing the proposed site in association with the existing network of informal and formal public open space specifically, it is apparent that the subject site is not inextricably linked to this network. The land appears isolated in this context as a result of its physical and visual disconnection with existing designated open space provision.

The disconnection of the land from designated open space diminishes its value as a useable, functional and accessible resource in terms of promoting opportunities for formal and informal recreation and physical activity as well as its contribution towards nature conservation and environmental enhancement. It should be

noted that the approval of this application would not affect the function of the Coastal Trail in any way nor does it preclude the use of the remaining resource in its immediate surrounds as informal open space or preclude access to nearby open space provision.

Moreover, given the significant provision of public open space within close proximity to the site and the accessibility of these areas from Jubilee Terrace and the Coastal Trail, it is questionable how much value and emphasis is placed on the proposed site as a community resource for informal purposes. With this in mind, it is reasonable to suggest that the intrinsic value of the site is mainly in the form of its visual merits and aesthetic quality.

Whilst the visual appearance is much improved since the host property was built, due in part to the appellants programme of maintenance, the contribution the land makes to the overall character and appearance of the area is questionable. Such is the location of the land and its association with the surrounding area that it is not considered fundamental to the overall character of the street or the visual/ landscape characteristics of the wider area, emphasised by the sites position at the end of a residential street, behind a public convenience, on the approach to the caravan park.

Taking into account the quantity, quality, community value, accessibility and use of existing open space it is considered that the land has no significant functional value. Furthermore, the form and relationship of the land in association with the existing street scene along Jubilee Terrace is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area.

In respect of the second reason for refusal, the appointed officer correctly points out that the proposed site straddles the settlement boundary. However, the same is also true of a large portion of the curtilage of the host building, as shown in fig. 2 below.

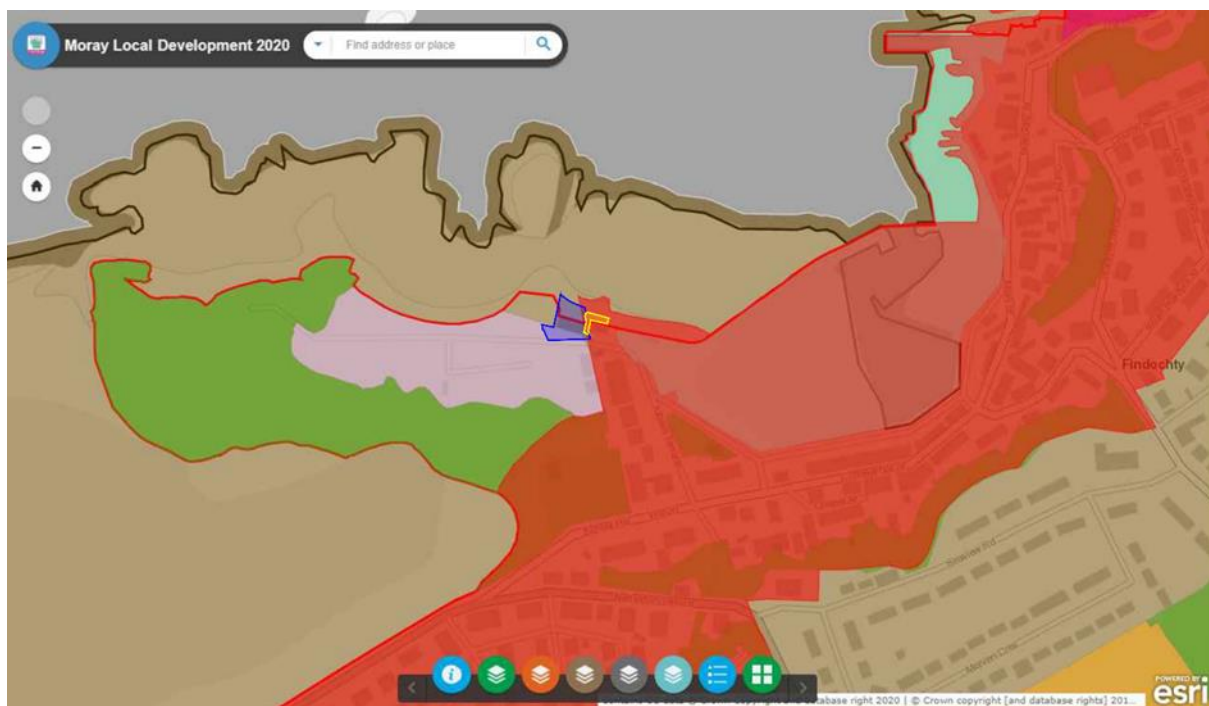
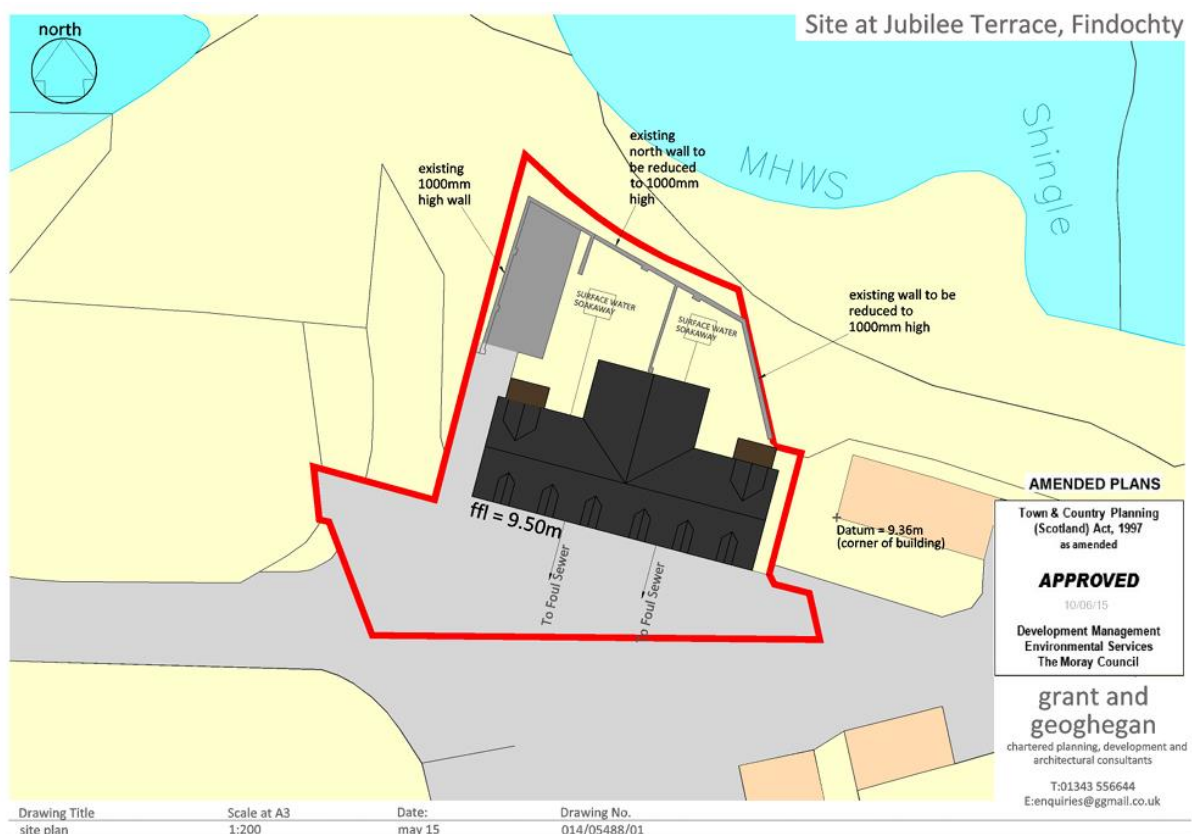


Fig. 2 - Appellants current curtilage (blue), appeal site (yellow), settlement boundary (solid red line), conservation area (red shade), designated green space (green) and special landscape area (brown).

The subjects originally gained the grant of planning permission under reference 12/01286/APP for the formation of two first floor flats over the (at that time) existing lockup garages before gaining the grant of planning permission under reference 15/00697/APP for the erection of 2 semi-detached dwellings.



Site Plan approved as part of 15/00697/APP with identical boundary to the appeal subjects

The appellants propose that during the plan making process of the MLDP 2020 that the settlement boundary of Findochty was not accurately updated to reflect the extent of an existing, approved domestic curtilage. In this context, the appellants would respectfully propose to Members that the extent of the settlement is blurred in this location, a fact emphasised by a portion of the conservation area also extending out with the settlement boundary for no apparent reason. On this basis, we would contend policy EP6 should carry limited weight in the planning balance.

5.0 Conclusion

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

In this case, when all matter are considered in the round, the appellants would contend that:-

- the proposals do not have a significant impact on open space provision in this part of Findochty, such as to warrant refusal of the planning application;
- do not significantly impact on people’s enjoyment of the Coastal Trail, and;
- due to the scale and location of the proposals, do not have a significantly detrimental impact on the special qualities of the conservation area, the special landscape area or upon the integrity of the settlement boundary.

The appellants respectfully submit that the above constitutes significant material weight in favour of the proposals, sufficient to attract a recommendation of approval. For these reasons, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.