



MORAY LOCAL REVIEW BODY

27 MAY 2021

SUMMARY OF INFORMATION FOR CASE No LR257

Planning Application 20/01692/APP – Alterations and extension, dwelling house, 8 Moray Street, Hopeman

Ward 5 – Heldon and Laich

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 22 February 2021 on the grounds that:

The proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1 (i) (e).

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 100339523-001

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

Description of Proposal

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

Proposed alterations and extension; extend existing single story extension to a 2nd story

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:	Architectural & Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Martin	Building Name:	The Old Church
Last Name: *	Archibald	Building Number:	
Telephone Number: *	01343870408	Address 1 (Street): *	Church Road
Extension Number:		Address 2:	Garmouth
Mobile Number:		Town/City: *	Moray
Fax Number:		Country: *	Scotland
		Postcode: *	IV32 7SR
Email Address: *	martin.archibald@sky.com		
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:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Donna	Building Number:	8
Last Name: *	McArthur	Address 1 (Street): *	Moray Street
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Hopeman
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5SA
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

869467

Easting

314272

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Trees

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

☐ Yes ☒ No

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

Access and Parking

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

☐ Yes ☒ No

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

Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Martin Archibald

On behalf of: Mrs Donna McArthur

Date: 09/12/2020

☒ Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

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

- a) Have you provided a written description of the development to which it relates? * ☒ Yes ☐ No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * ☒ Yes ☐ No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? * ☒ Yes ☐ No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. ☒ Yes ☐ No
- e) Have you provided a certificate of ownership? * ☒ Yes ☐ No
- f) Have you provided the fee payable under the Fees Regulations? * ☒ Yes ☐ No
- g) Have you provided any other plans as necessary? * ☒ Yes ☐ No

Continued on the next page

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

You can attach these electronic documents later in the process.

- ☒ Existing and Proposed elevations.
- ☒ Existing and proposed floor plans.
- ☒ Cross sections.
- ☒ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☒ Photographs and/or photomontages.

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

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

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

Declare – For Householder Application

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

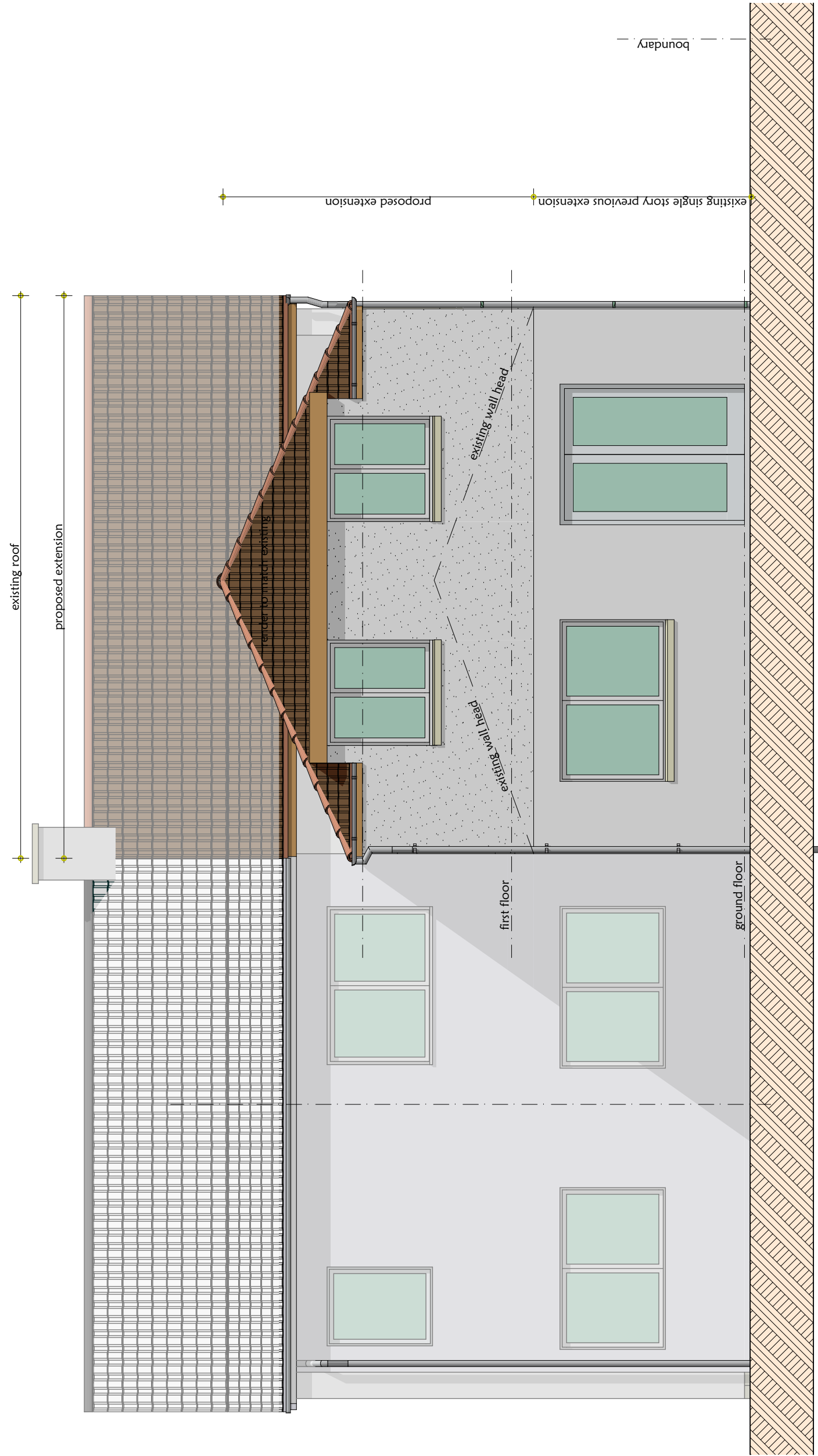
Declaration Name: Mr Martin Archibald

Declaration Date: 09/12/2020

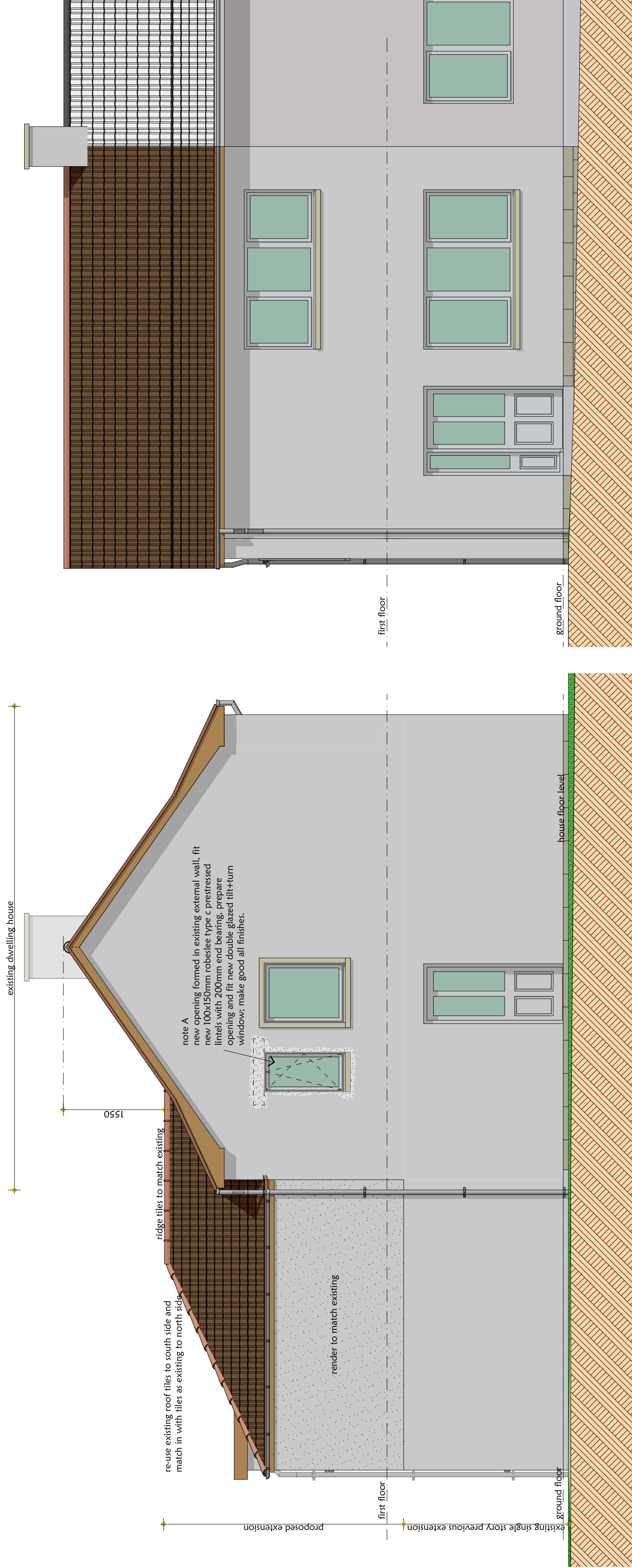
Payment Details

Telephone Payment Reference: xxxxx

Created: 09/12/2020 11:02

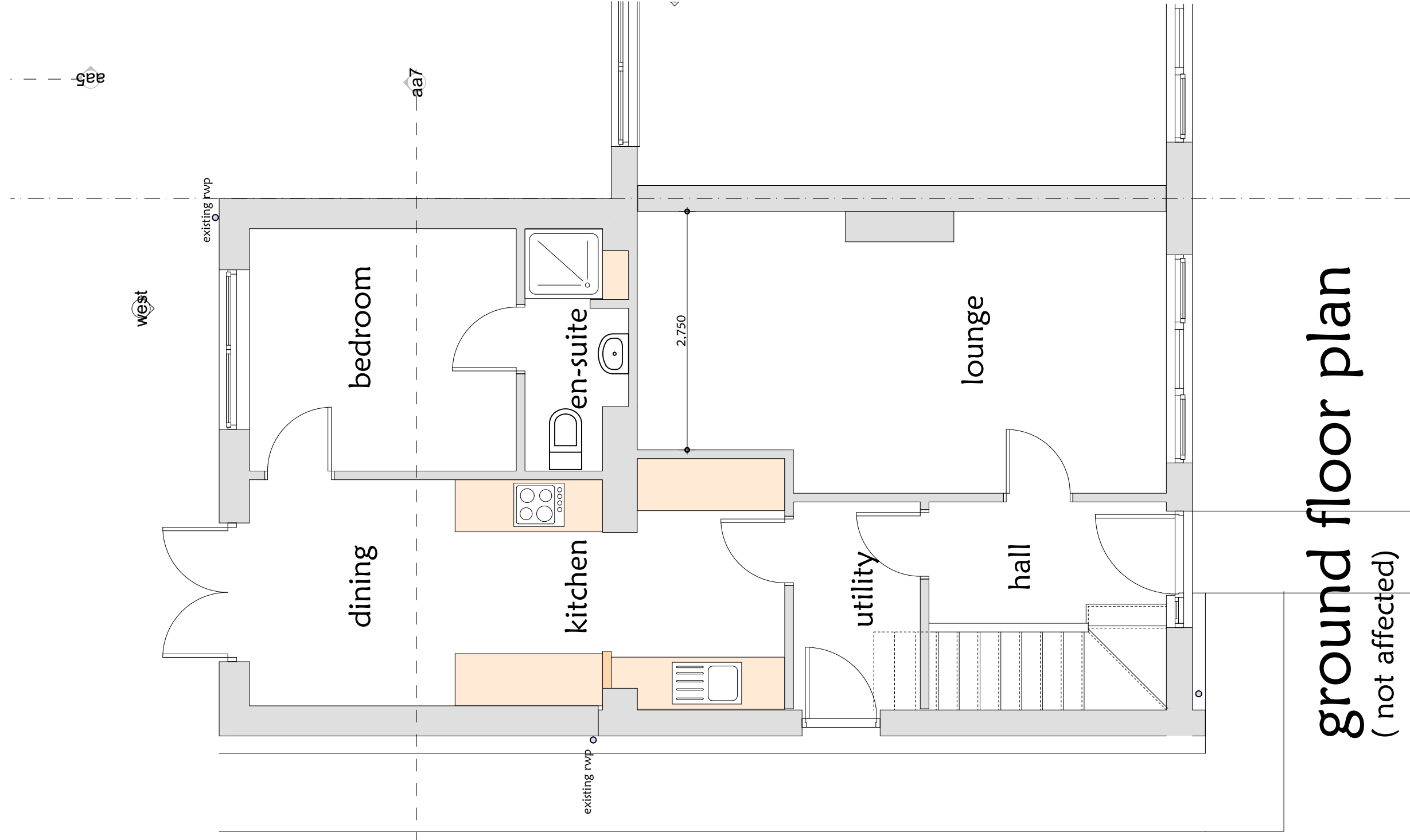


west elevation

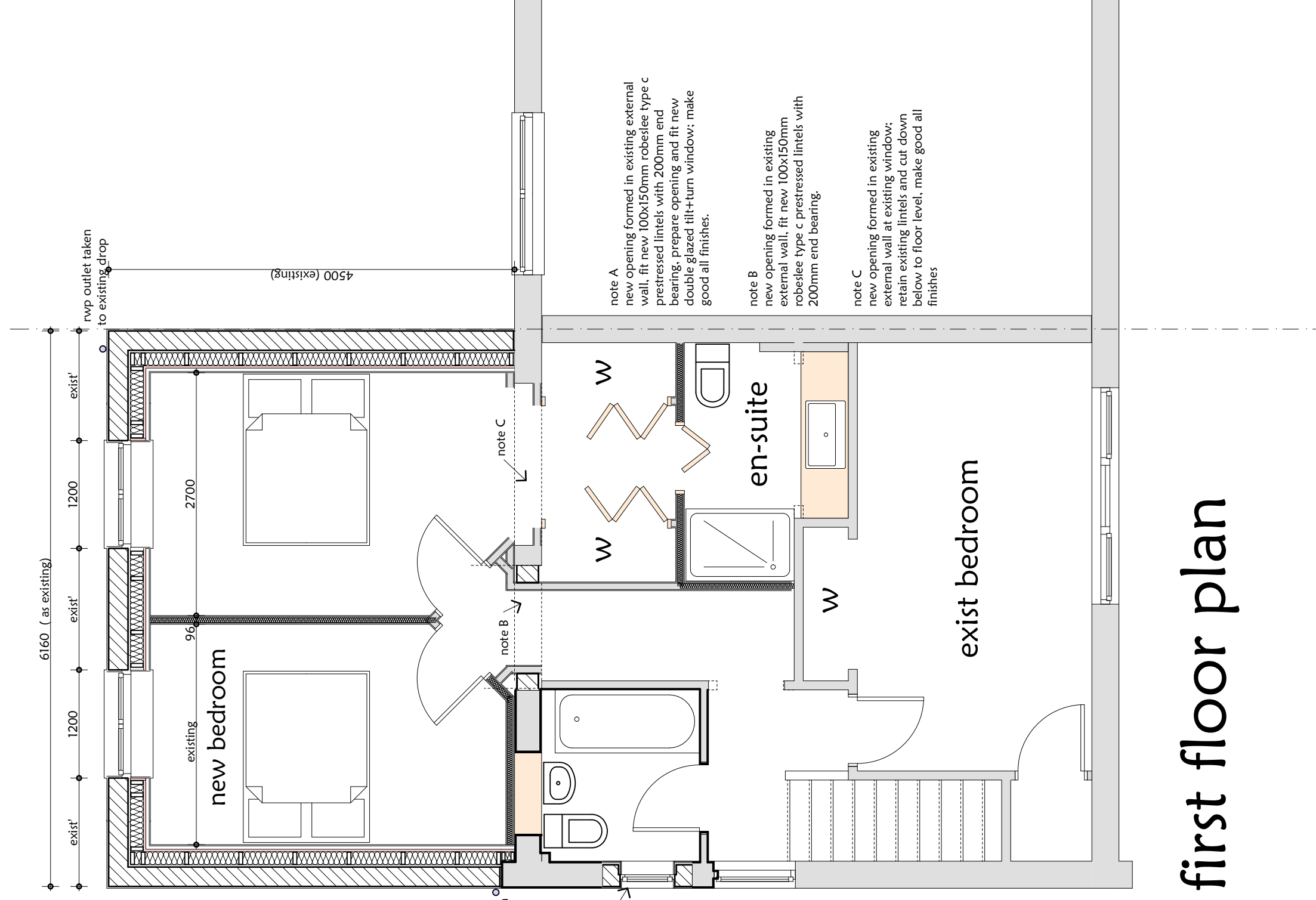


south elevation

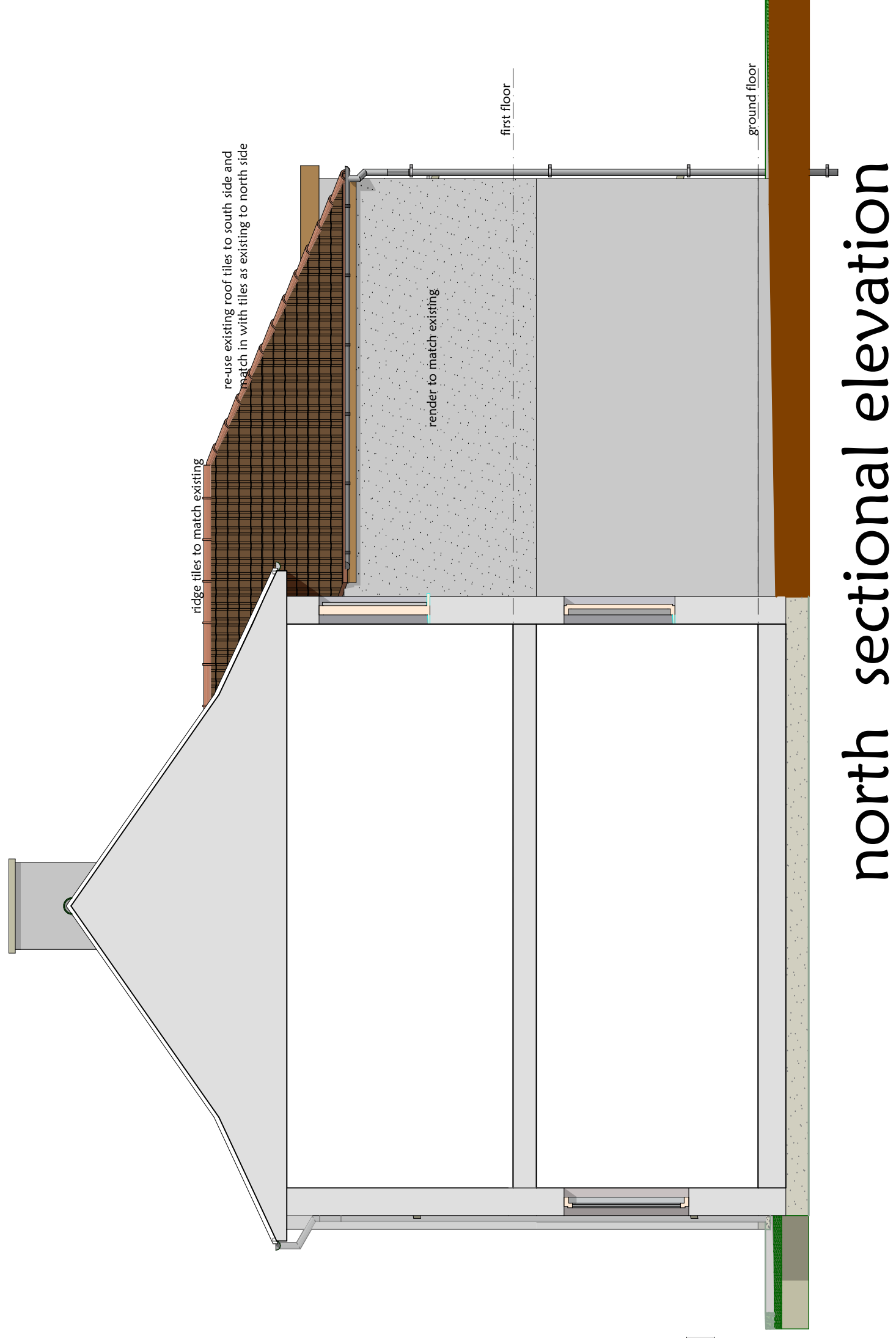
east elevation (not affected)



ground floor plan
(not affected)



first floor plan



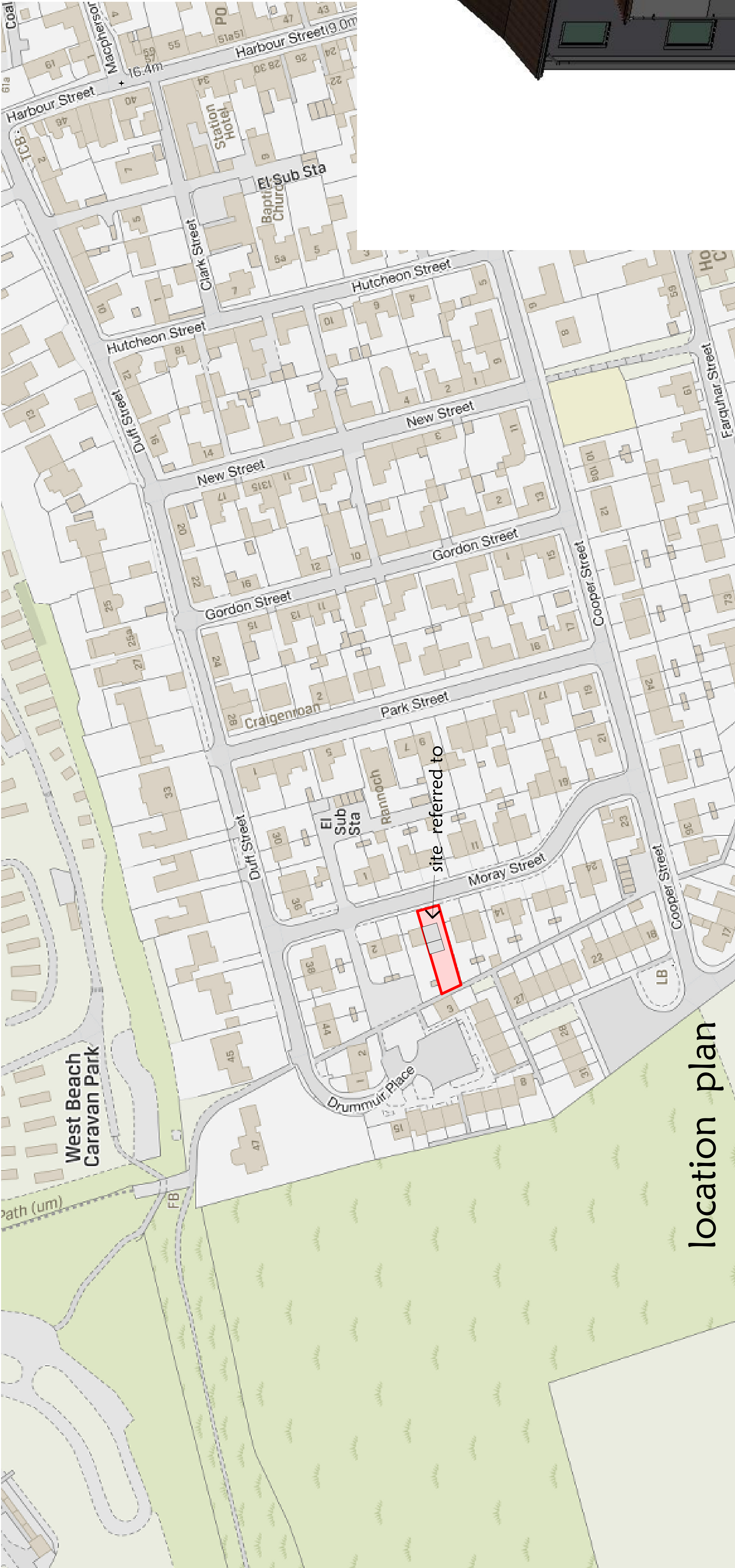
north sectional elevation

MARTIN ARCHIBALD
ARCHITECTURAL & PLANNING CONSULTANTS
SPECIALISING IN INDIVIDUAL HOUSE DESIGN

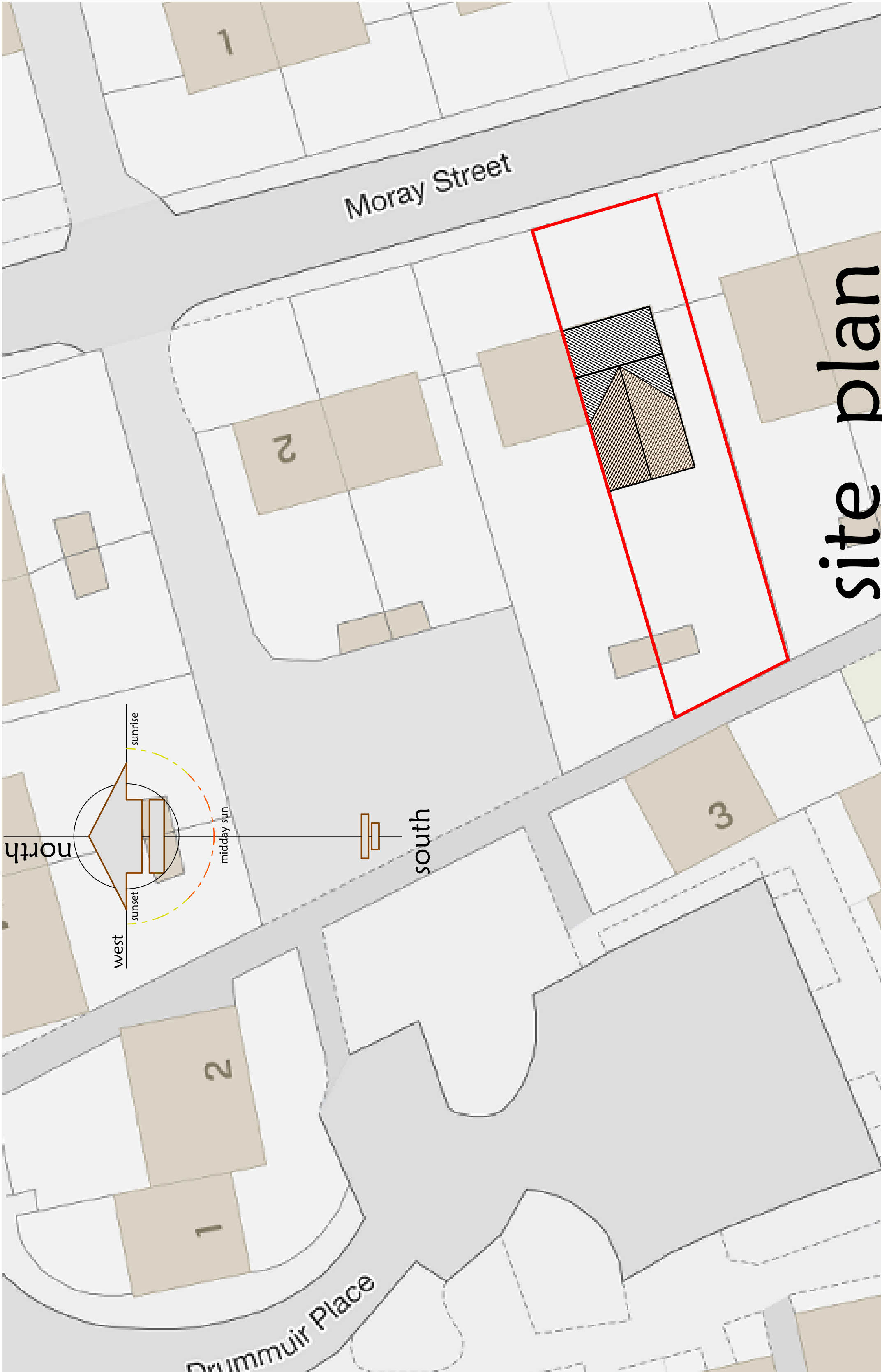
THE OLD CHURCH
GARMOUTH
MORAY IV32 7SR
TELEPHONE 01463 700000
E mail: martin.archibald@sky.com

• Few Plans •
• Extensions •
• Conversions •
• Renovations •
• Roadside design •
• Measured Surveys •
• Bill of Materials •
• Certification of Building Work •
• Production of Tender Documents & Contract Management •
• Innovative designs brought to life with 'virtual reality' models and tours of your home •
• A FULL & COMPREHENSIVE ARCHITECTURAL SERVICE •

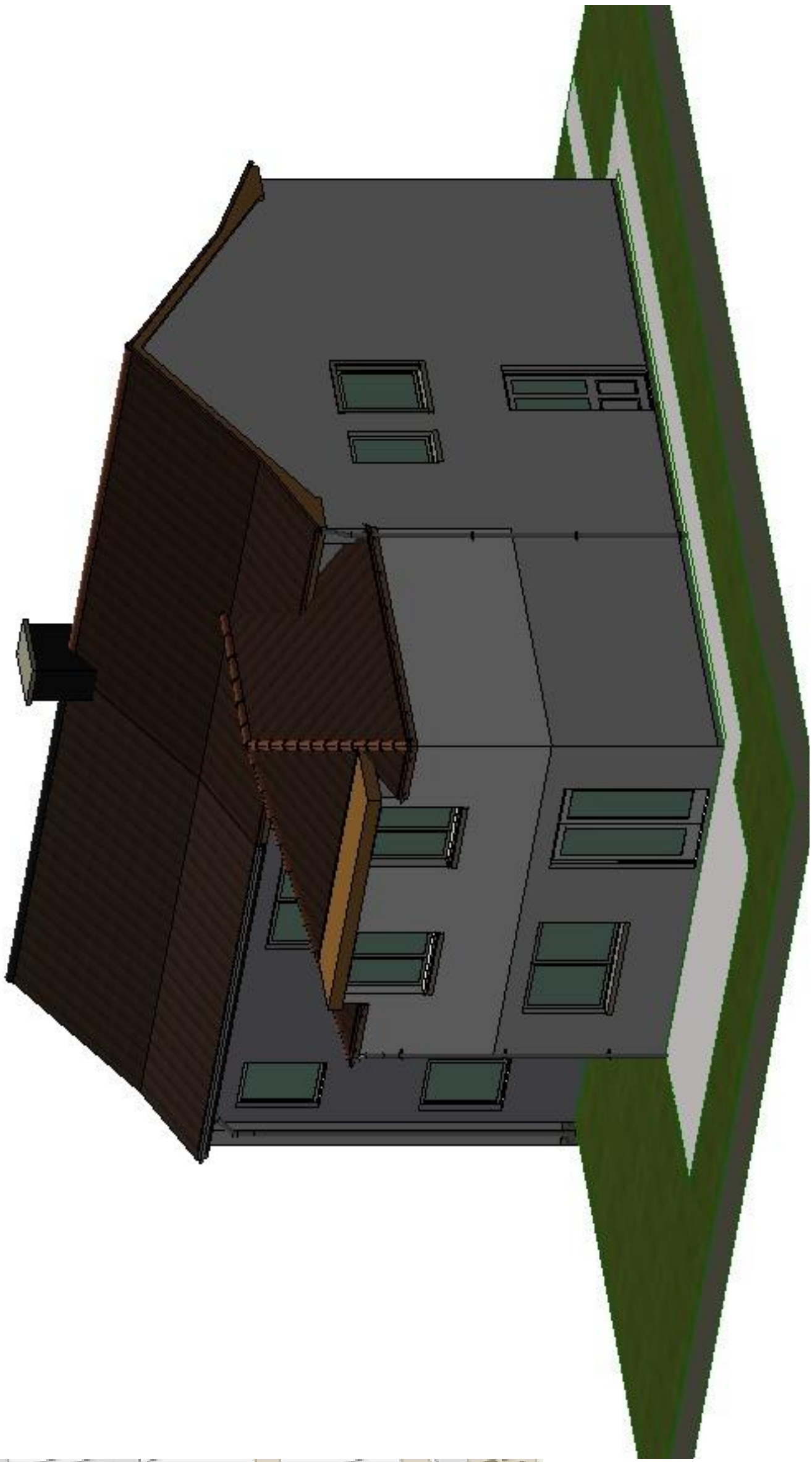
Project		
Proposed alterations and extension 8 Moray street, Hopeman for Donna McArthur		
Scale	1:50	Date November 2020
Drawn by	Martin Archibald	Signed Martin Archibald
Drawing No	34 : 2020 : 1a	



location plan

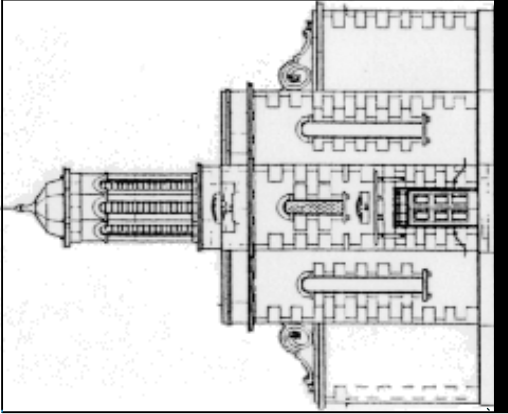


site plan



indicative perspective

MARTIN ARCHIBALD
ARCHITECTURAL & PLANNING CONSULTANTS
◦ SPECIALISING IN INDIVIDUAL HOUSE DESIGN ◦



THE OLD CHURCH
CARMOUTH
MORAY IV327SR
TYPICAL / RECONSTRUCTION
© martin.archibald @ sky.com

• Fire Plans
• Conversions
• Roads design
• Measured Surveys
• Production of Tender Documents & Contract Management
• Innovative designs brought to life, with 'virtual reality' models and tours of your home

• Extensions
• Renovations
• Heating Schemes
• Bills of Materials
• Full & Comprehensive Architectural Service

Project		Proposed alterations and extension 8 Moray street, Hopeman for Donna McArthur	
Scale	1:200 + 1:1000	Date	November 2020
Drawn by	Martin Archibald	Signed	Martin Archibald
Drawing No	34 : 2020 : 2a		

© copyright MARTIN ARCHIBALD

**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No: 20/01692/APP

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

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

Reason(s) for objection

Conditions(s)

Further comments(s) to be passed to applicant

Further information required to consider the application

Contact: Will burnish Date 17/12/20

email address: Will.burnish@moray.gov.uk Phone No

Consultee: The Moray Council, Flood Risk Management

Consultee Comments for Planning Application 20/01692/APP

Application Summary

Application Number: 20/01692/APP

Address: 8 Moray Street Hopeman Elgin Moray IV30 5SA

Proposal: Alter and extend dwellinghouse at|cr|

Case Officer: Fiona Olsen

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

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	29th December 2020
Planning Authority Reference	20/01692/APP
Nature of Proposal (Description)	Alter and extend dwellinghouse at
Site	8 Moray Street Hopeman Elgin Moray IV30 5SA
Site Postcode	N/A
Site Gazetteer UPRN	000133008935
Proposal Location Easting	314273
Proposal Location Northing	869464
Area of application site (M²)	
Additional Comment	
Development Hierarchy Level	
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=QL43IIBGMFY00
Previous Application	02/01324/FUL
Date of Consultation	15th December 2020
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Donna McArthur
Applicant Organisation Name	
Applicant Address	8 Moray Street Hopeman Elgin Moray IV30 5SA
Agent Name	Martin Archibald
Agent Organisation Name	
Agent Address	The Old Church Church Road Garmouth Moray IV32 7SR
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Fiona Olsen
Case Officer Phone number	01343 563189
Case Officer email address	fiona.olsen@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: 20/01692/APP
Alter and extend dwellinghouse at
8 Moray Street Hopeman Elgin Moray for Mrs Donna McArthur

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"/> |

Further comment(s) to be passed to applicant

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

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

Date 08 January 2021

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.

01355-225845

05 JAN 2021

ECONOMY 31/12/2020
ENVIRONMENTAL FINANCE
Dr John

PLANNING APPLICATIONS
20/01669/APP + 20/01529/APP +
20/01667/APP + 20/01692/APP

PLEASE ENSURE ALL WILDLIFE
FROM A FLOOD ON EACH SITE
IS FULLY PROTECTED

NO BUILDINGS CAN BE
DEMOLISHED UNTIL IT
IS CERTAIN THAT THERE
IS NO ~~CONNECTION~~ CONNec-
TION WITH BATS WHO COULD
BE IN HIBERNATION WITHIN
THE BUILDING(S)

HERONS ARE ALSO

II

LIBERATING AT THIS
TIME, MEMBERS MUST BE
TRAINED TO PROTECT THEM

PLANT THIS

WIND TURNING AND
A RISK TO PEOPLE AND
TO WINDLICK:

Yours faithfully

[REDACTED]

STAY SAFE STAY WELL

BEST WISHES FOR 2021
MAY IT BE VERY MUCH
BETTER!

REPORT OF HANDLING

Ref No:	20/01692/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Alter and extend dwellinghouse at 8 Moray Street Hopeman Elgin Moray		
Date:	22/02/21	Typist Initials:	FJA

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	16/12/20	No Objections
Moray Flood Risk Management	16/12/20	No Objections
Transportation Manager	08/01/21	No Objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Y	
EP12 Management and Enhancement Water	N	
EP14 Pollution Contamination Hazards	N	

REPRESENTATIONS

Representations Received	YES	
Total number of representations received		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
Issue: Wildlife, flora and fauna on each site to be fully protected Comments (PO): This is an application for a first floor extension and is not anticipated to impact on any protected species. Should the application be approved, an informative would be added to the reminding the applicant their duties regarding bats.		
Issue: No Buildings to be demolished until certain no bats are hibernating issue:		

Comments (PO): Again, this is a first floor extension application and would not involve any demolition however should the applicant be approved, an informative should be added reminding the application of their duties regarding bats.
Issue: Hedgehogs are hibernating and should be protected Comments (PO): The development is a first floor extension only and is not anticipated to impact on any protected species
Issue: Plant trees Comments (PO): The application is for a first floor extension only and will not result in any tree removal. As a result no compensatory planting is required.
Issue: Wind Turbines are a risk to people and wildlife Comments: This application does not involve any wind turbines.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

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

Proposal

The application seeks planning permission to erect a first floor extension above an existing single storey extension. The extension would measure 6.2m x 4.5m x 6.1m (to the roof ridge, 4.7m to the eaves) and would form two bedrooms on the first floor.

The extension would incorporate a hipped roof, to be finished in reused tiles from the existing extension roof and new tiles to match. The external walls would be finished in render to match the existing main, parent property.

The existing extension was erected in the early 2000s under 02/01324/FUL and measures approx. 6.2m x 4.5m x 3.6m (to the roof ridge, 2.5m to the eaves) and contains a kitchen, dining area, bedroom and ensuite on the ground floor.

Site

The existing property is a two storey, semi-detached dwellinghouse located at 8 Moray Street, Hopeman. The property has an existing single storey extension to the rear which was erected in the early 2000s (02/01324/FUL refers).

There are neighbouring properties to the north (attached), south and west of the site. The site is bound by the public road to the east.

Policy Assessment

Siting and Design (MLDP 2020 Policy DP1)

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

The original design of the extension measured approx. 6.2m x 4.5m x 7.6m (to the roof ridge, 5.m to the eaves) and incorporated a pitched roof. Following an initial review and site visit, concern was raised to the agent regarding the potential for the extension to give rise to an unacceptable level of overshadowing to the neighbouring (attached) property and in particular, the nearest neighbouring window which is believed to serve an open plan lounge/dining area. Following discussion with the agent, the design was altered to the current proposal which incorporates a hipped roof, a ridge height of approx. 6.1m and an eaves height of approx. 4.7m.

Although the overall height of the extension has been reduced by approx. 1.5m, the eaves height has only been reduced by approx. 0.7m. A BRE Information Paper on 'Site Layout Planning for Daylight'

sets out techniques which can be applied to assess developments for impact on levels of daylight. This does not form part of policy but is widely regarded as good practice. The guidance uses the 45 degree method for developments which are perpendicular to the window to be assessed. These techniques are only applied to 'habitable rooms' which would include all rooms designed for living, and sleeping. The method involves drawing a 45 degree line from the nearest corner of the proposed extension in both floor plan and elevation forms towards the neighbouring property. If the shape formed would enclose the centre point of a window on the neighbouring property, then the light to that window would be significantly affected. In the case of this proposal, a 45 degree line drawn on the floor plan from the south-western corner of the extension and on the elevation plan from eaves level to ground level would fully surpass the nearest neighbouring window on both plans and therefore would significantly affect the daylight to that window. It must be noted that the footprint of the proposed extension is unaltered from the existing single storey extension and therefore the 45 degree line on the floor plan would be the same across both the existing and proposed extensions. However the line drawn on the elevation plan would show a significant increase in overshadowing to the nearest neighbouring window than that on the existing rear elevation. This assessment demonstrates that there is already a degree of overshadowing from the existing single storey extension to the nearest neighbouring window (serving a lounge/dining area), however this would be increased by forming a first floor extension above the existing extension.

Policy DP1 states that proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. The existing single storey extension has a large footprint (more than half of the original property) and a projection of 4.5m from the rear elevation and as a result would already affect the daylight to the nearest neighbouring window. The proposal to form a first floor extension above the footprint of the existing single storey extension would result in a increase in height (as measured from ground to eaves level) of 2.2m crease in wall height to form a first floor extension would result in an increased level overshadowing and decrease in daylight to the nearest neighbouring window. This would lead to an unacceptable loss of amenity to that property and therefore is unacceptable in terms of policy DP1.

In terms of privacy, all openings within the proposed extension would be orientated onto the applicant's existing garden ground. A single additional opening on the south elevation of the main property is proposed however as this is an additional smaller opening on this elevation and would serve a bathroom only, would not give rise to any additional overlooking to neighbours.

With regard to the external finishes, the extension would incorporate a hipped roof, to be finished in reused tiles from the existing extension roof and new tiles to match. The external walls would be finished in render to match the existing main, parent property. Although these finishes would be acceptable and accord with the main dwellinghouse, they would not override the aforementioned objections.

Overall therefore, the proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north of the site) which would lead to an overbearing loss of amenity to that neighbouring property and the application will be refused.

Conclusion

Refusal

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

HISTORY			
Reference No.	Description		
02/01324/FUL	Proposed alterations extension and associated works at 8 Moray Street Hopeman Elgin Moray IV30 5SA		
	Decision	Permitted	Date Of Decision 21/08/02

ADVERT		
Advert Fee paid?	No	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	Departure from development plan	25/01/21
PINS	Departure from development plan	25/01/21

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

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

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

TO Mrs Donna McArthur
c/o Martin Archibald
The Old Church
Church Road
Garmouth
Moray
IV32 7SR

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:-

Alter and extend dwellinghouse at 8 Moray Street Hopeman Elgin Moray

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

Date of Notice: **22 February 2021**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Fincance
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 proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1 (i)(e).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
34:2020:1	A	Elevations and floor plans
34:2020:2	A	Site and location plan

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

Amended Site and Location Plan, Elevations and Floor Plans submitted to show revised design.

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

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

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



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



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

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100339523-003

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.

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:	Architectural & Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Martin	Building Name:	The Old Church
Last Name: *	Archibald	Building Number:	
Telephone Number: *	01343870408	Address 1 (Street): *	Church Road
Extension Number:		Address 2:	Garmouth
Mobile Number:		Town/City: *	Moray
Fax Number:		Country: *	Scotland
		Postcode: *	IV32 7SR
Email Address: *	martin.archibald@sky.com		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Donna"/>	Building Number:	<input type="text" value="8"/>
Last Name: *	<input type="text" value="McArthur"/>	Address 1 (Street): *	<input type="text" value="Moray Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Hopeman"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 5SA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="869467"/>	Easting	<input type="text" value="314272"/>
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Description of Proposal

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

Alterations and extension, dwelling house, 8 Moray Street. Hopeman.

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

supporting statement attached

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

☐ Yes ☒ No

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

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

1. Supporting statement 2. Map of the area

Application Details

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

20/01692/APP

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

10/12/2020

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

22/02/2021

Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr Martin Archibald

Declaration Date: 05/04/2021

MARTIN ARCHIBALD

ARCHITECTURAL & PLANNING CONSULTANTS

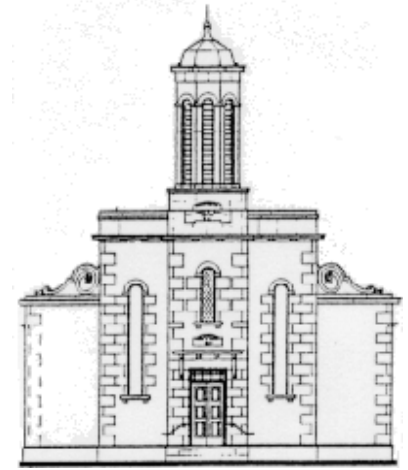
Our Ref: MJA/mja/DM
Your ref : 20/01692/APP

29th March 2021

The Moray Council
Development Services
Planning Department
Elgin
Moray
IV30 9BX

Dear Madam

Alterations and extension, dwelling house, 8 Moray Street. Hopeman.



THE OLD CHURCH
GARMOUTH
MORAY
IV32 7SR

Telephone: (01343) 870408
e.mail: martin.archibald@sky.com

SUPPORTING STATEMENT FOR APPEAL

I refer to the above Planning application which was refused on the 22nd February 2021.

The application was refused with the following reason(s);

The proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DPI(i)(e)

ORIGINAL PROPOSAL

Our original application was for an extension over an existing single story extension to create a second story (see drawing numbers 23:2020:1 and 2)

This proposal is exactly the same as what had been approved, literally next door at number 12, directly across the road at number 11 Moray Street and there is also an identical extension at number 7 Manse Road which is only 15m south of the proposal; 3 properties within view of this application all virtually identical to our proposal.

AMENDED PROPOSAL

The planning officer raised the issue of overbearing with me, I discussed with the applicants and we reduced the height of the eaves by 750mm, the pitch by 10 degrees and the ridge considerably by 1550mm, or just over 5ft, (see drawing numbers 34:2020:1b and 2b) We felt that this was a satisfactory outcome in that the overall scale has been reduced by 1550mm and the wall head height is below that of the neighbours windows on the first floor; allowing the south and south west sun.

JUSTIFICATION

- The applicants have discussed their proposals with their neighbours and they are happy with the proposals (original and amended) and they did not object, particularly given that there already is an extension in place.
- The existing extension (in place since 2004) already overshadows the only window affected on the ground floor and our amended proposal will have no further impact on the neighbouring property.
- On the ground floor, the room that is overshadowed has the 'main' window to the front and on the first floor the overshadowed bedroom has uninterrupted daylight facing west and enjoy the daylight from afternoon to sunset. It will also still catch the sun as the ridge height has been drastically reduced.

Our Ref: MJA/mja/DM
Your ref : 20/01692/APP

29th March 2021

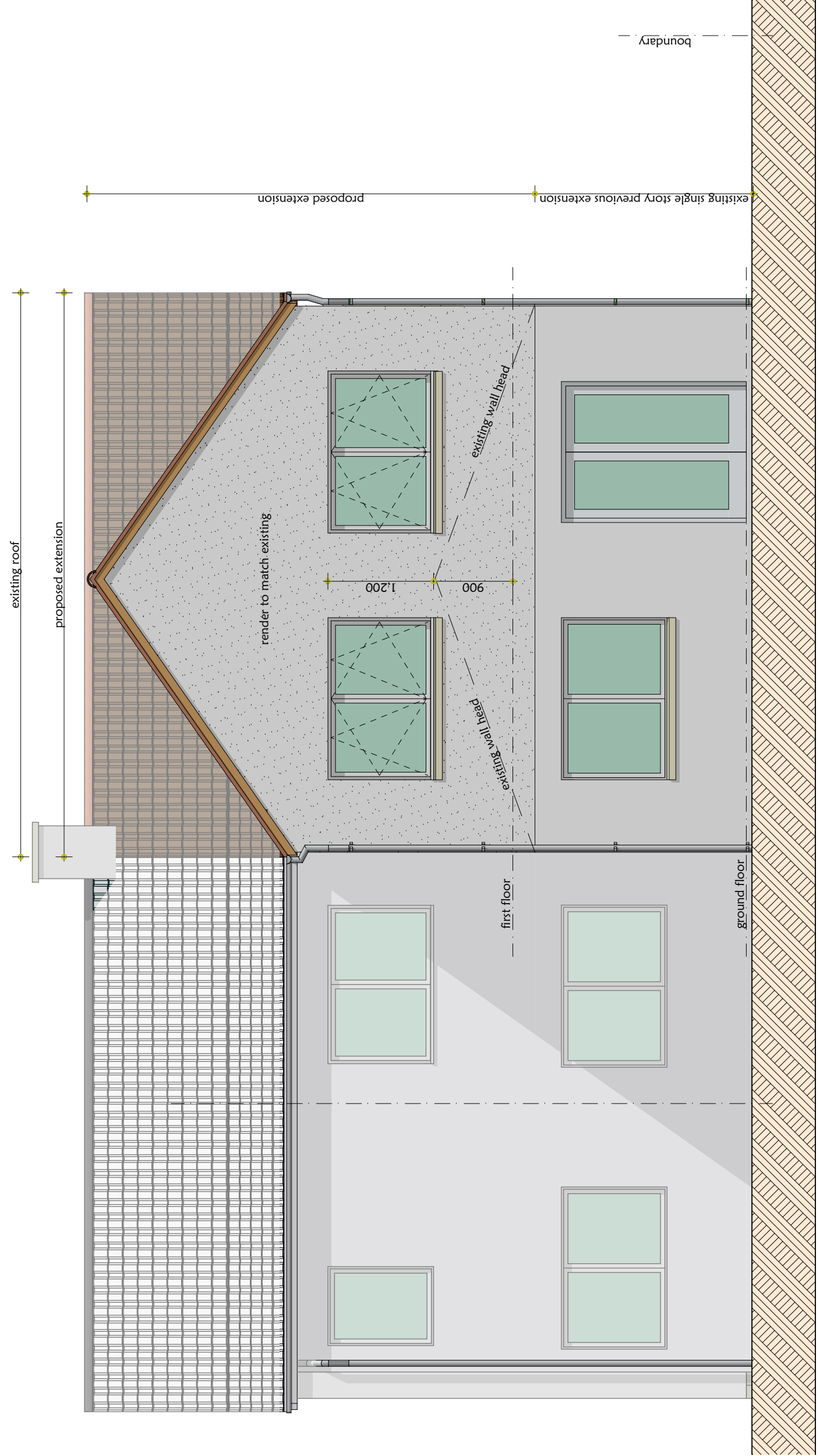
- The applicants love the area and really do not want to move house, they cannot extend their property on the ground floor and this type of proposal is their only option to extend so as they can remain residing here. It seems unjust that a planning policy can forbid an extension to allow folk to remain where they belong. It seems particularly unjust and difficult for agents to explain the situation with applicants, when in truth what is proposed is identical to neighbouring properties; numbers 11 and 12 Moray Street, and number 27 Manse road directly opposite to the west, and I will safely assume many more in the village.

CONCLUSION

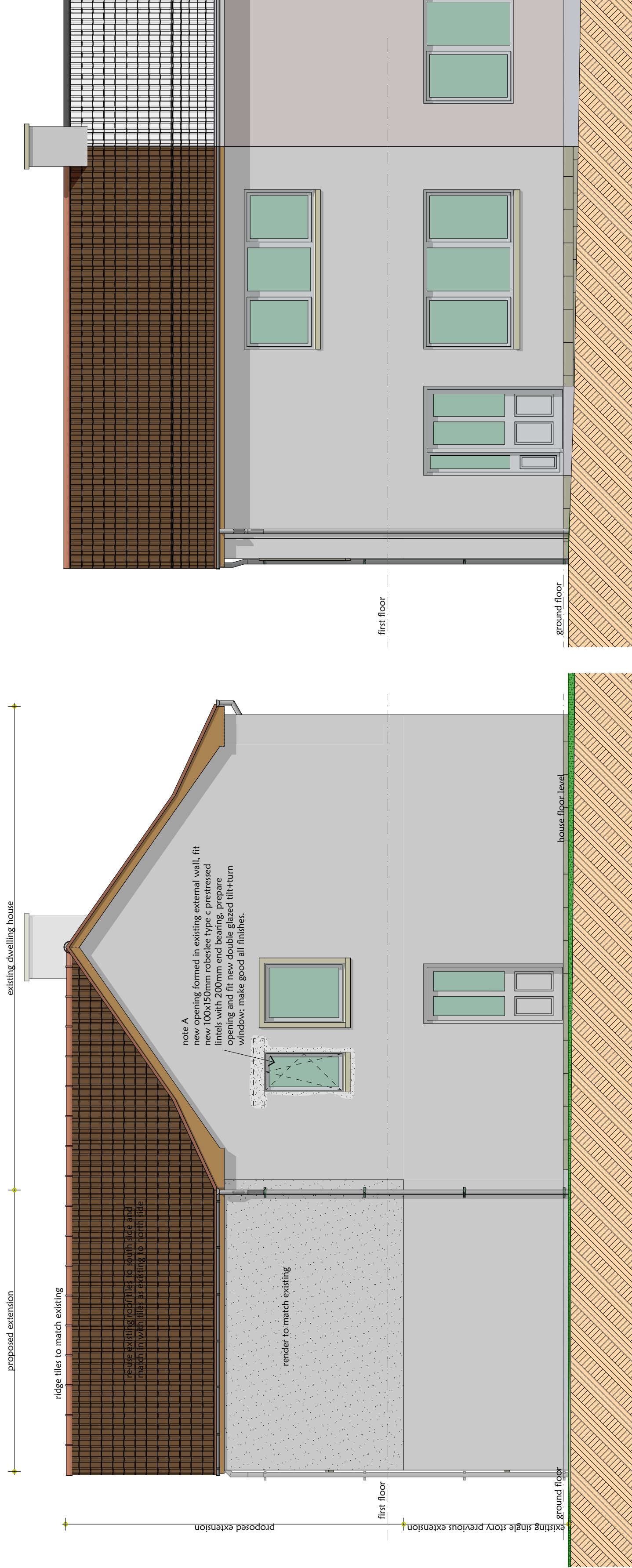
We took on board the Planning concerns and reduced the size of the extension considerably and believe the proposals have very little additional impact if any on the neighbouring property and for this and the above reasons we feel the proposal should have been approved.

Martin Archibald (agent)

A FULL AND COMPREHENSIVE ARCHITECTURAL SERVICE

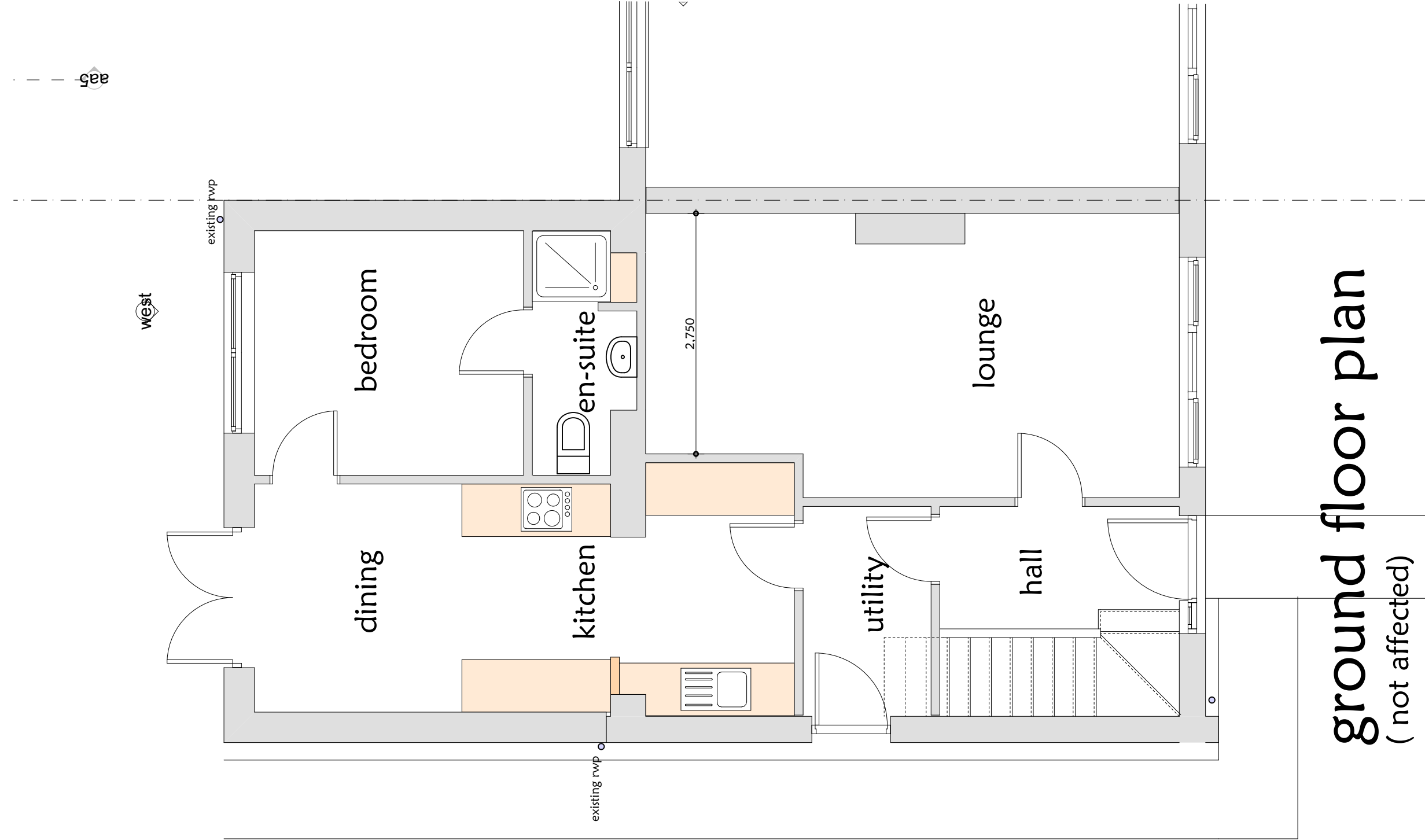


west elevation

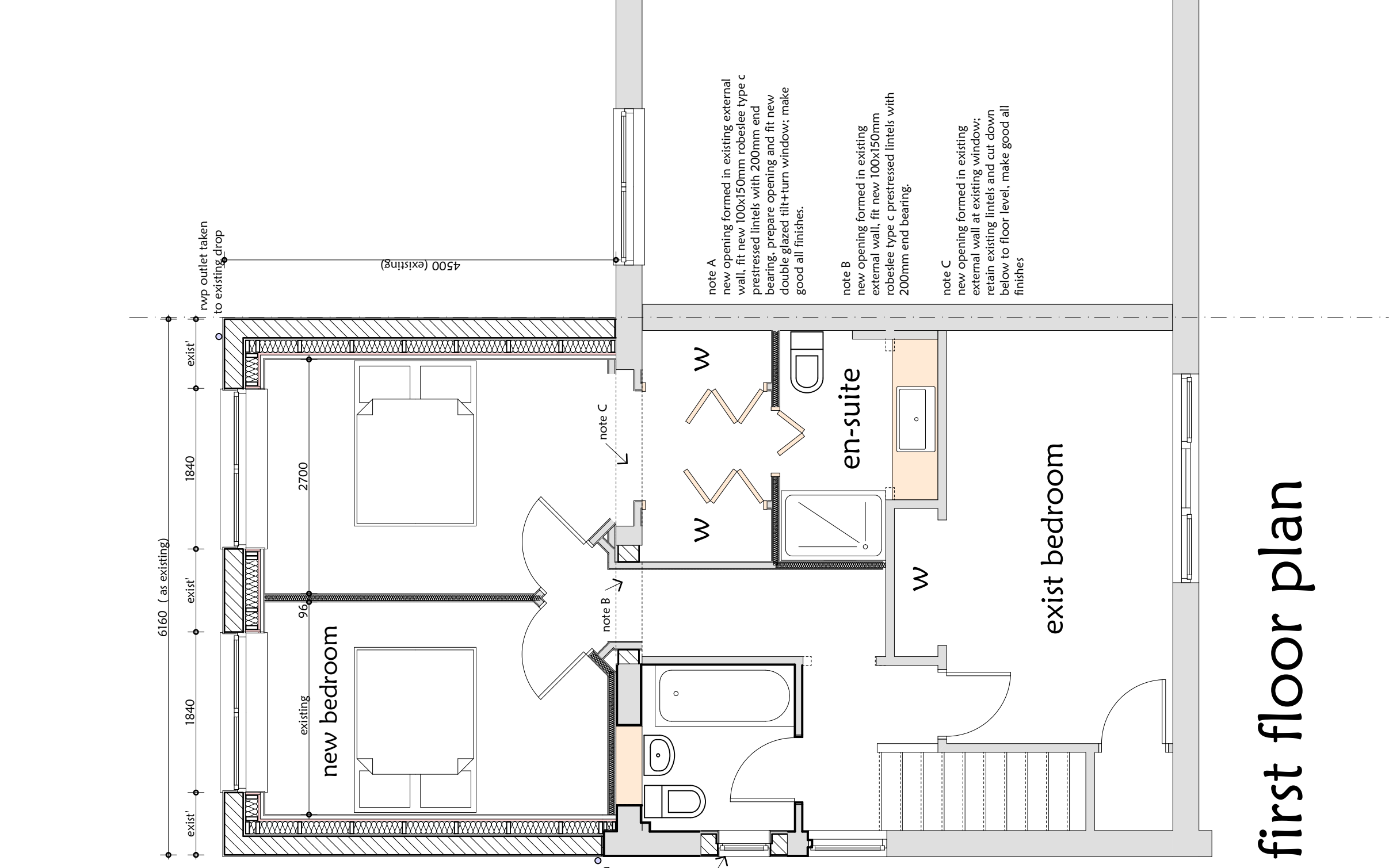


south elevation

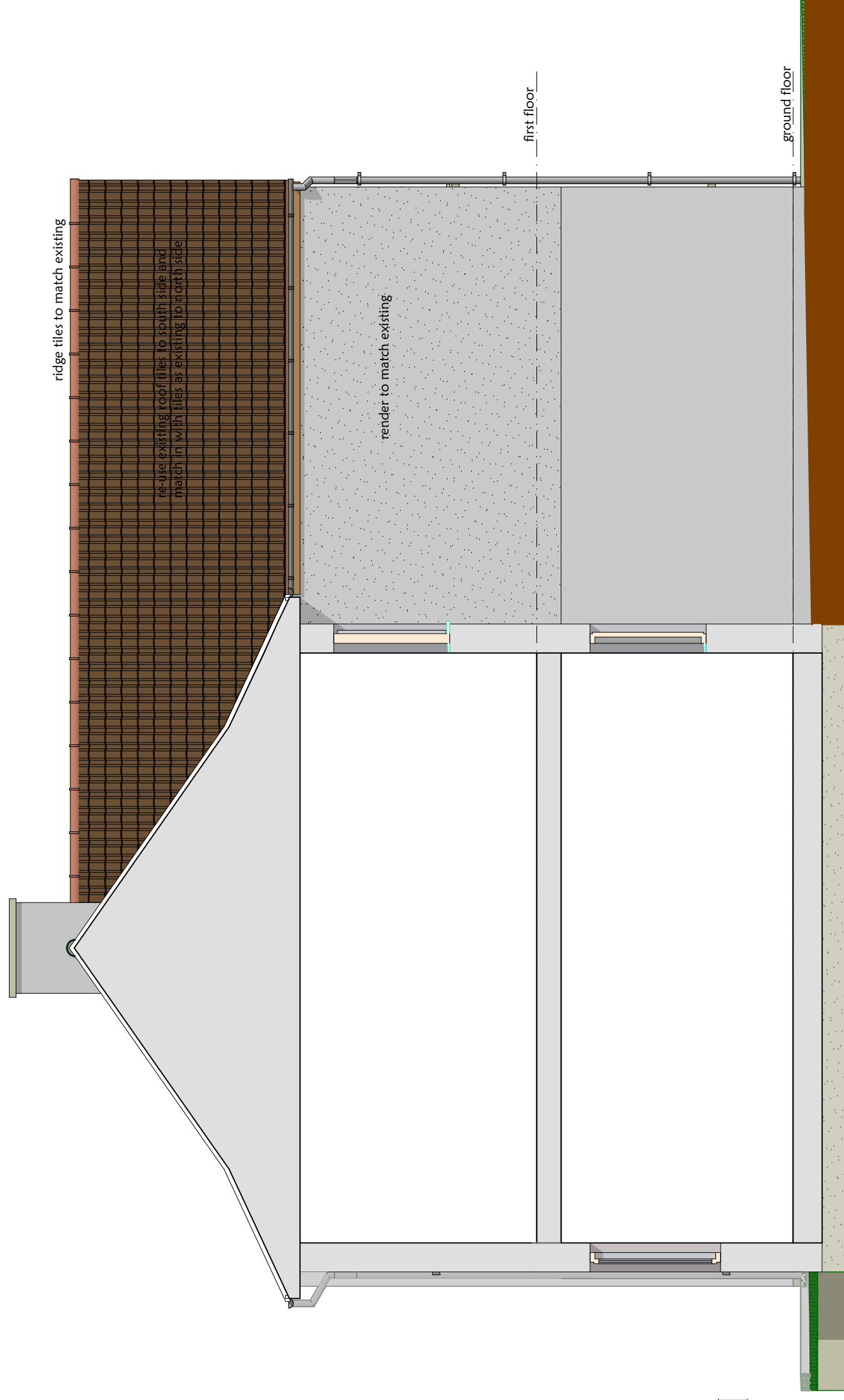
east elevation (not affected)



ground floor plan
(not affected)



first floor plan



north sectional elevation

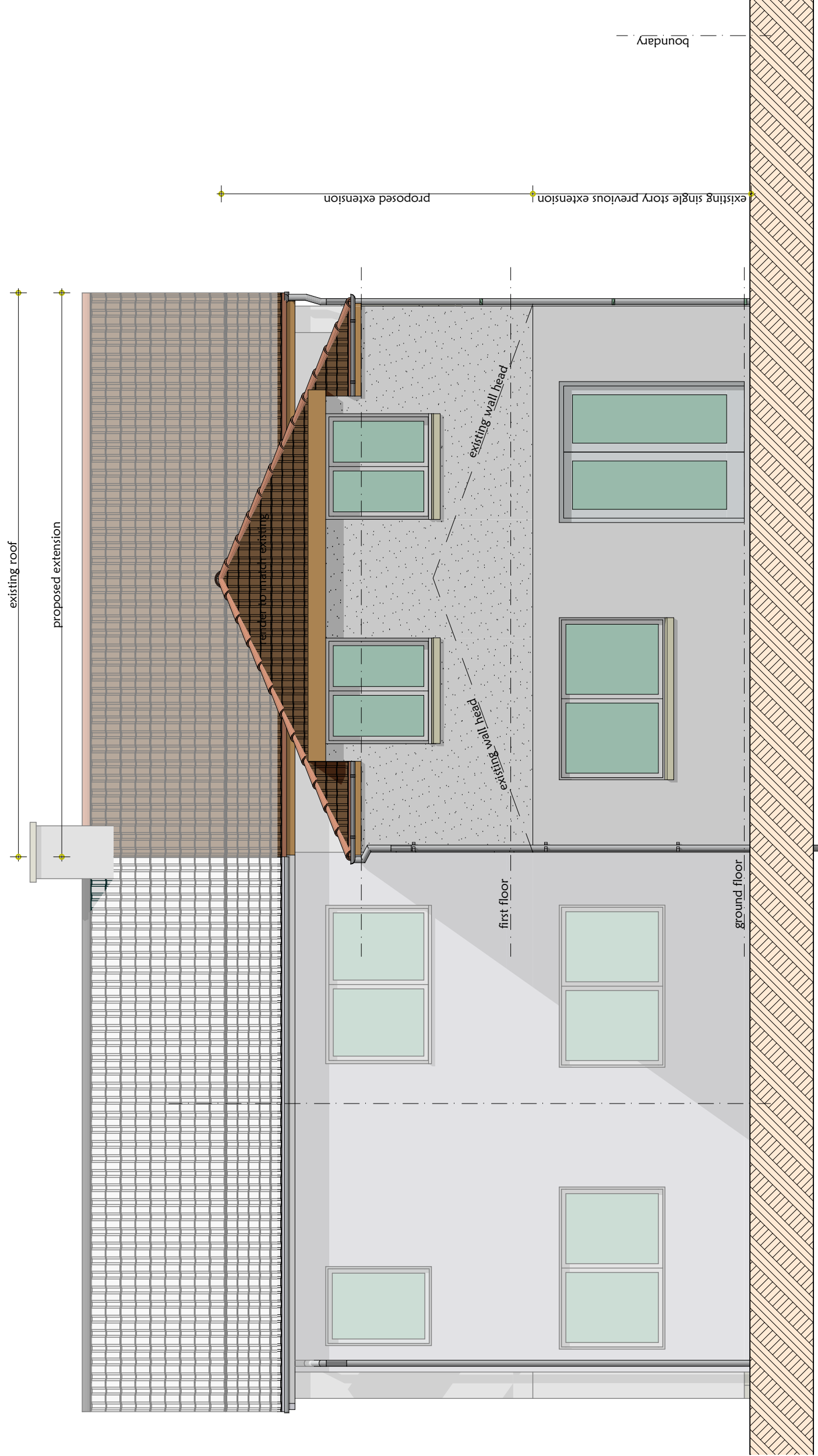
MARTIN ARCHIBALD
ARCHITECTURAL & PLANNING CONSULTANTS
SPECIALISING IN INDIVIDUAL HOUSE DESIGN

THE OLD CHURCH
MORAY
MORAY IV32 7SR
TELEPHONE: 01463 833333
EMAIL: martin.archibald@sky.com

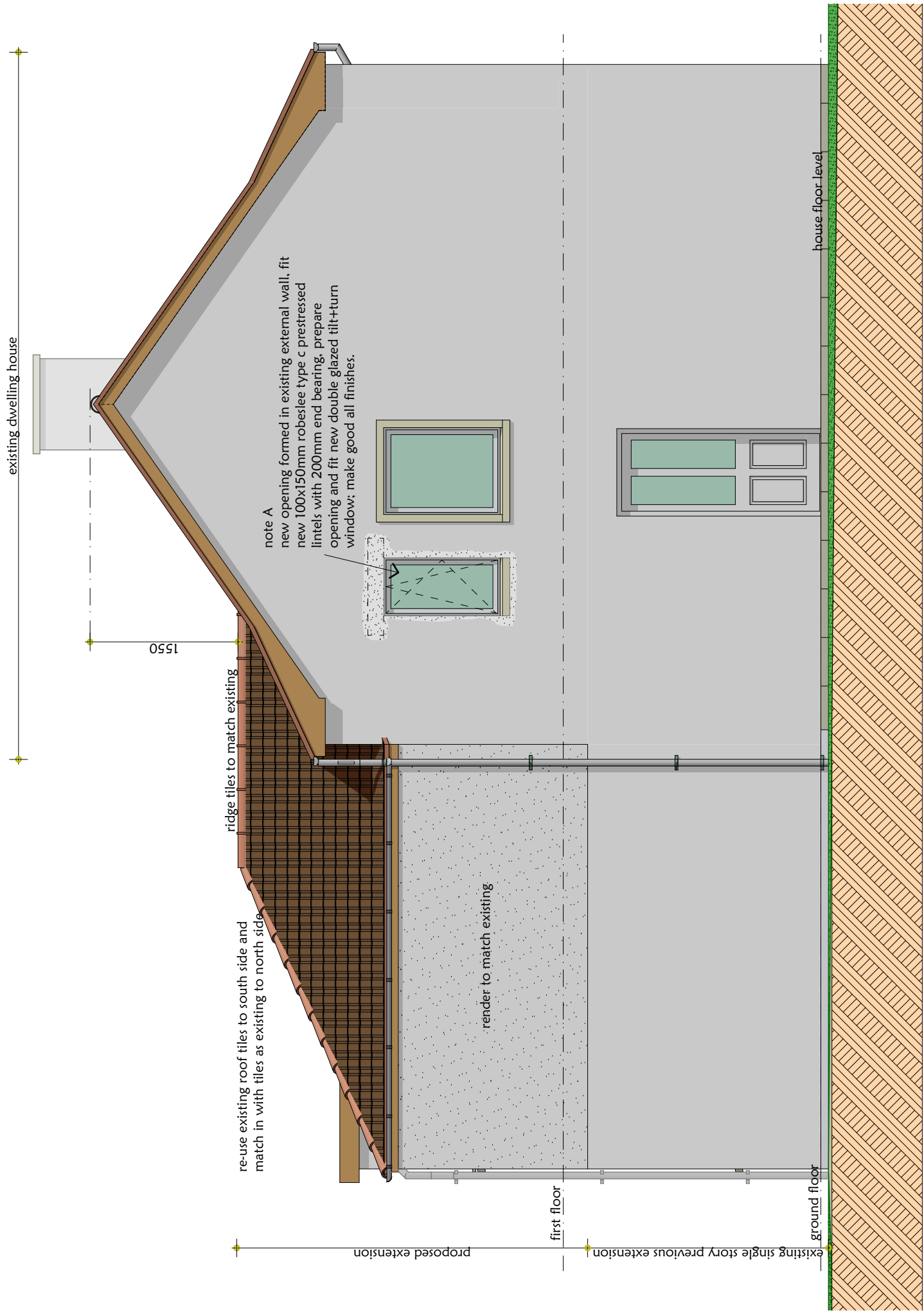
• Few Plans •
• Extensions •
• Conversions •
• Roadside design •
• Measured Surveys •
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• Extensions •
• Renovations •
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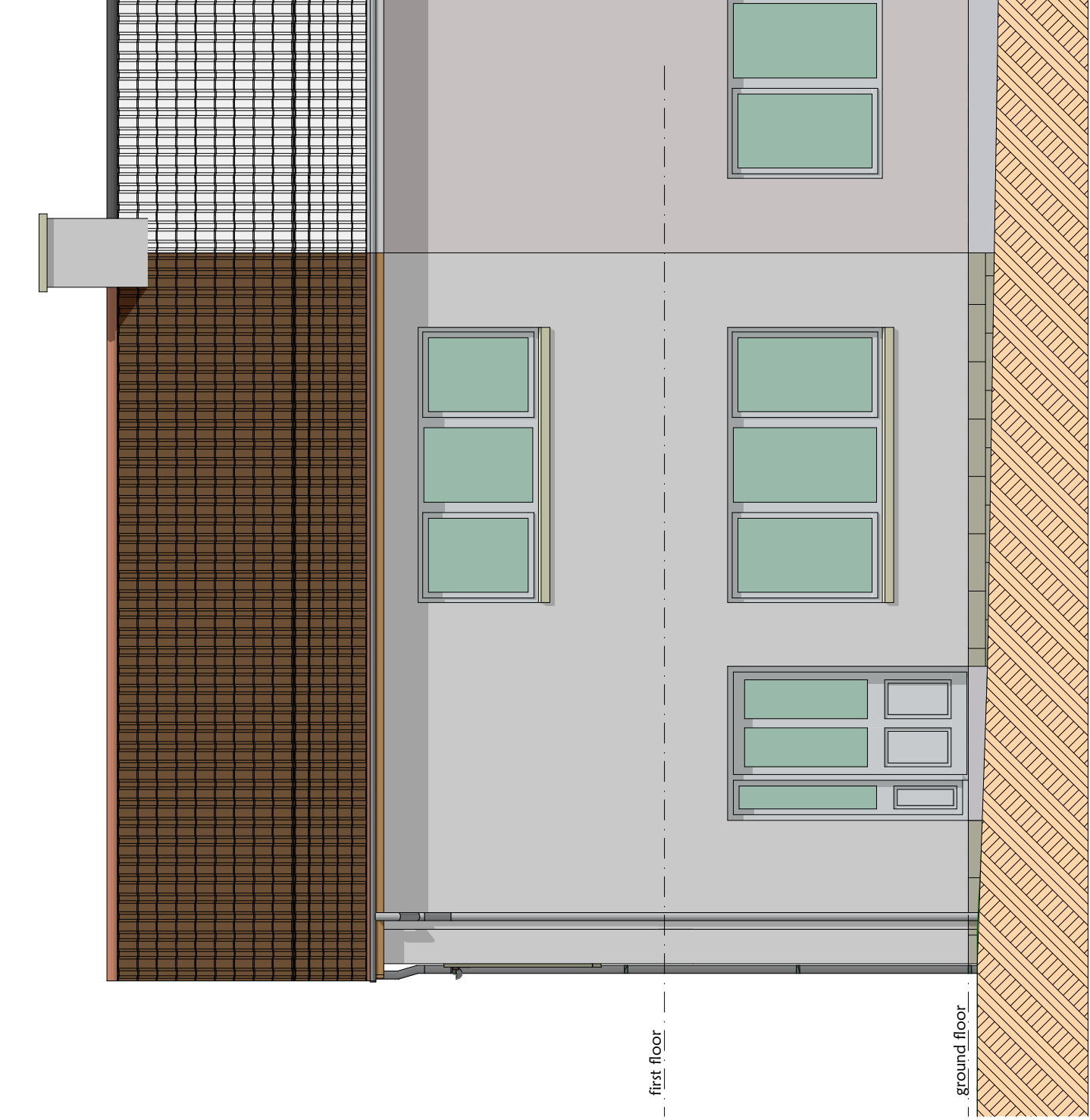
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Scale	1:50	Date	November 2020
Drawn by	Martin Archibald	Signed	Martin Archibald
Drawing No	34 : 2020 : 1		



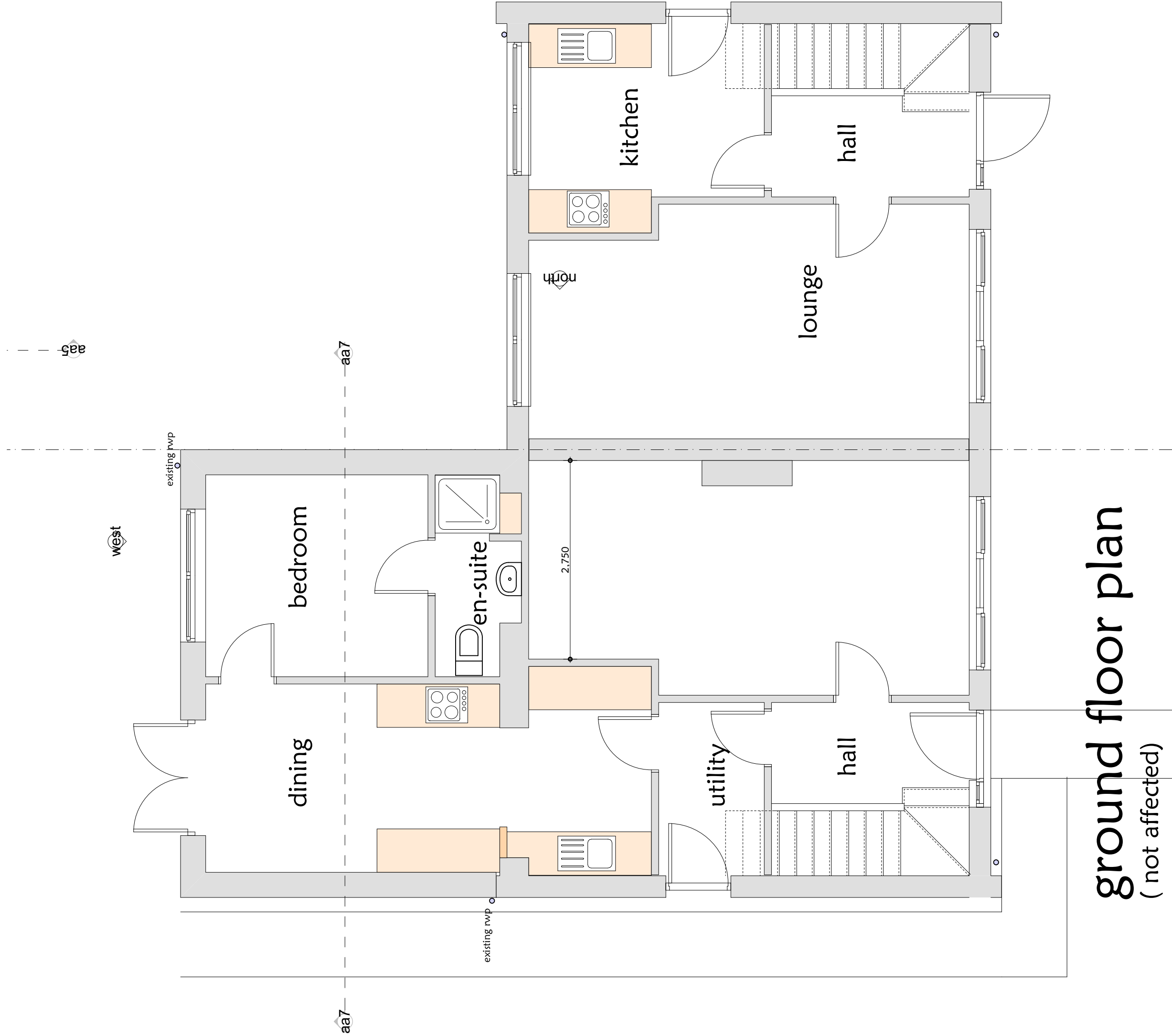
west elevation



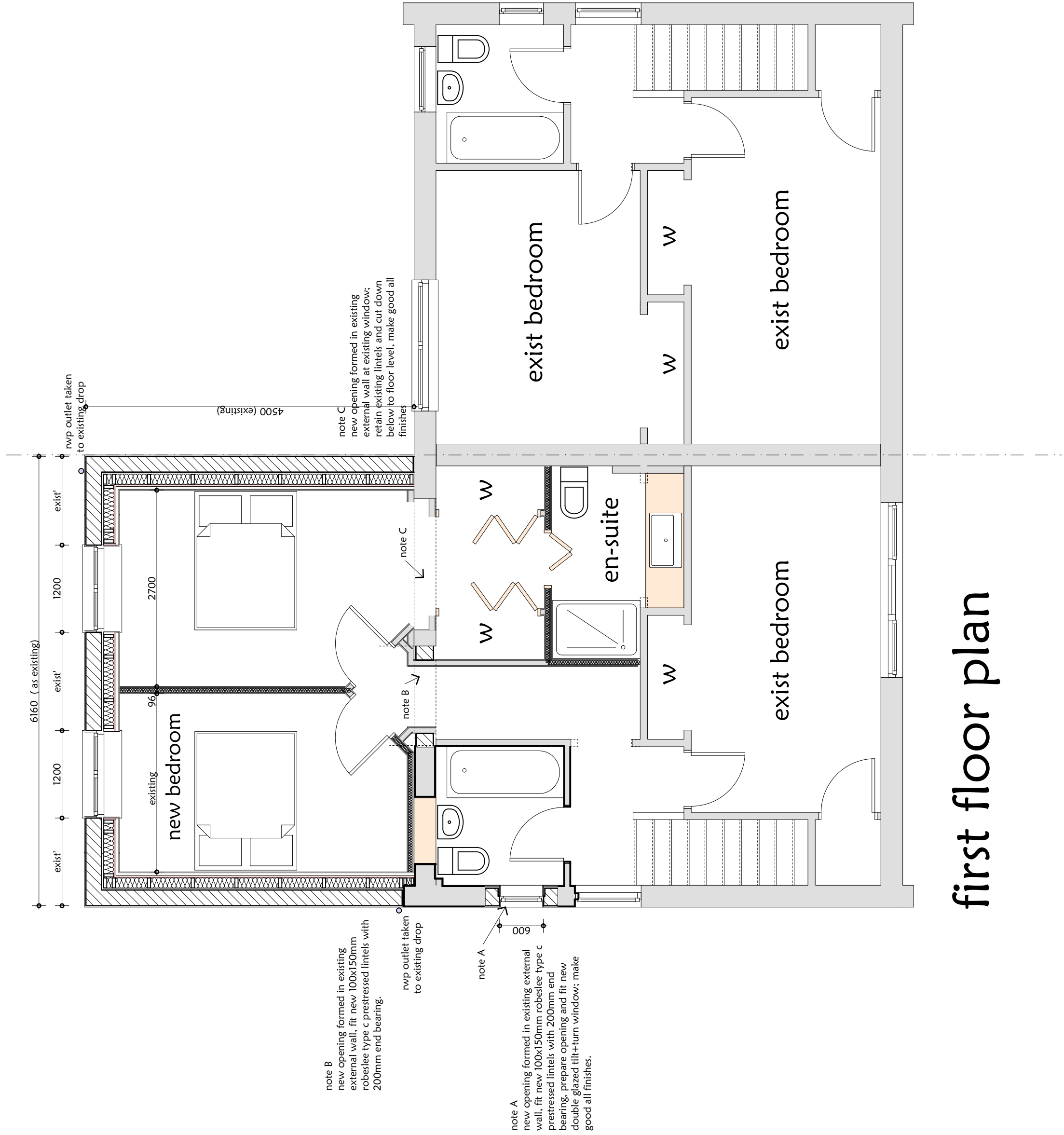
south elevation



east elevation (not affected)

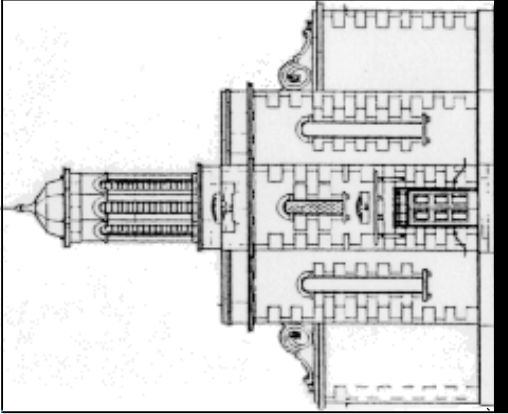


ground floor plan
(not affected)



first floor plan

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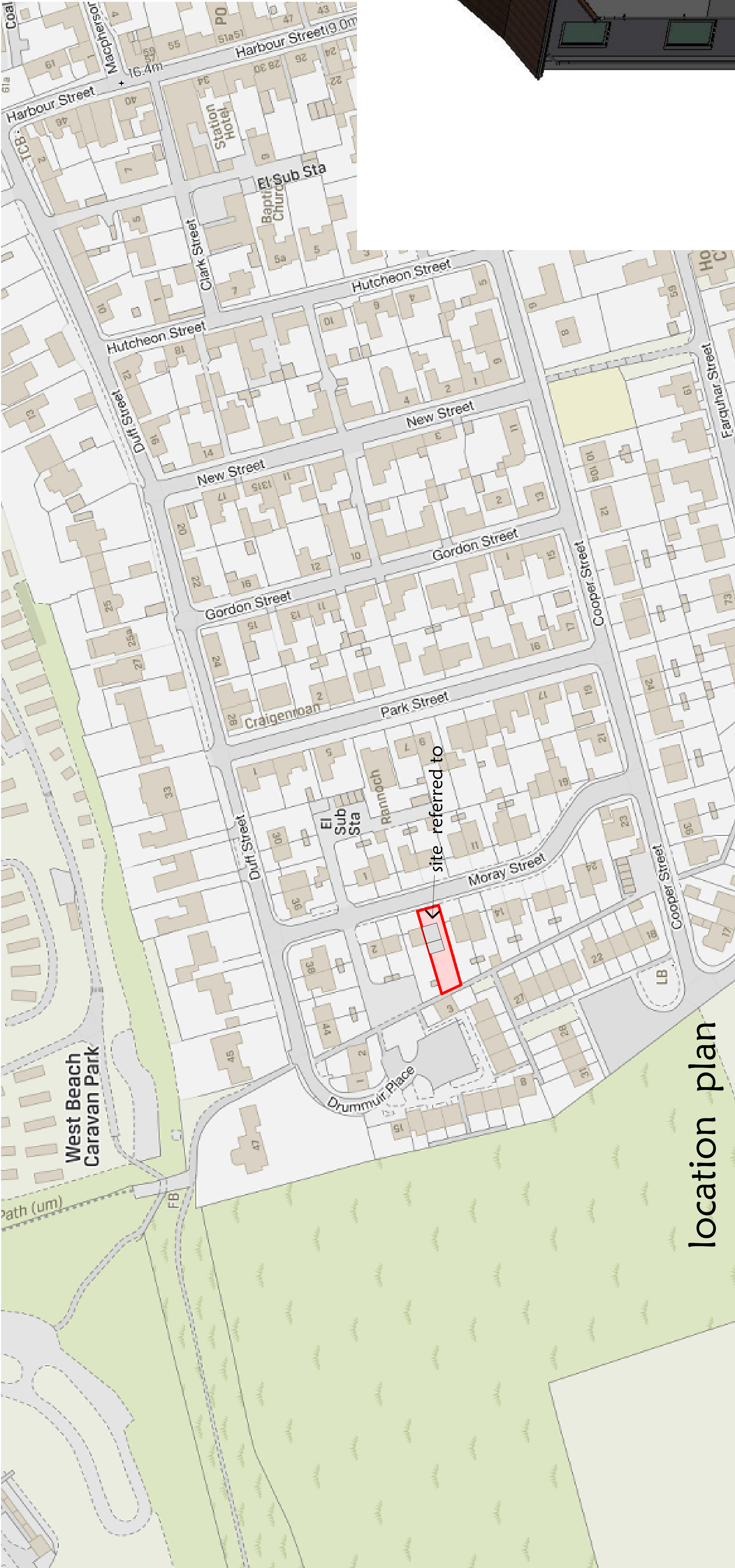


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EMAIL: martin.archibald@sky.com

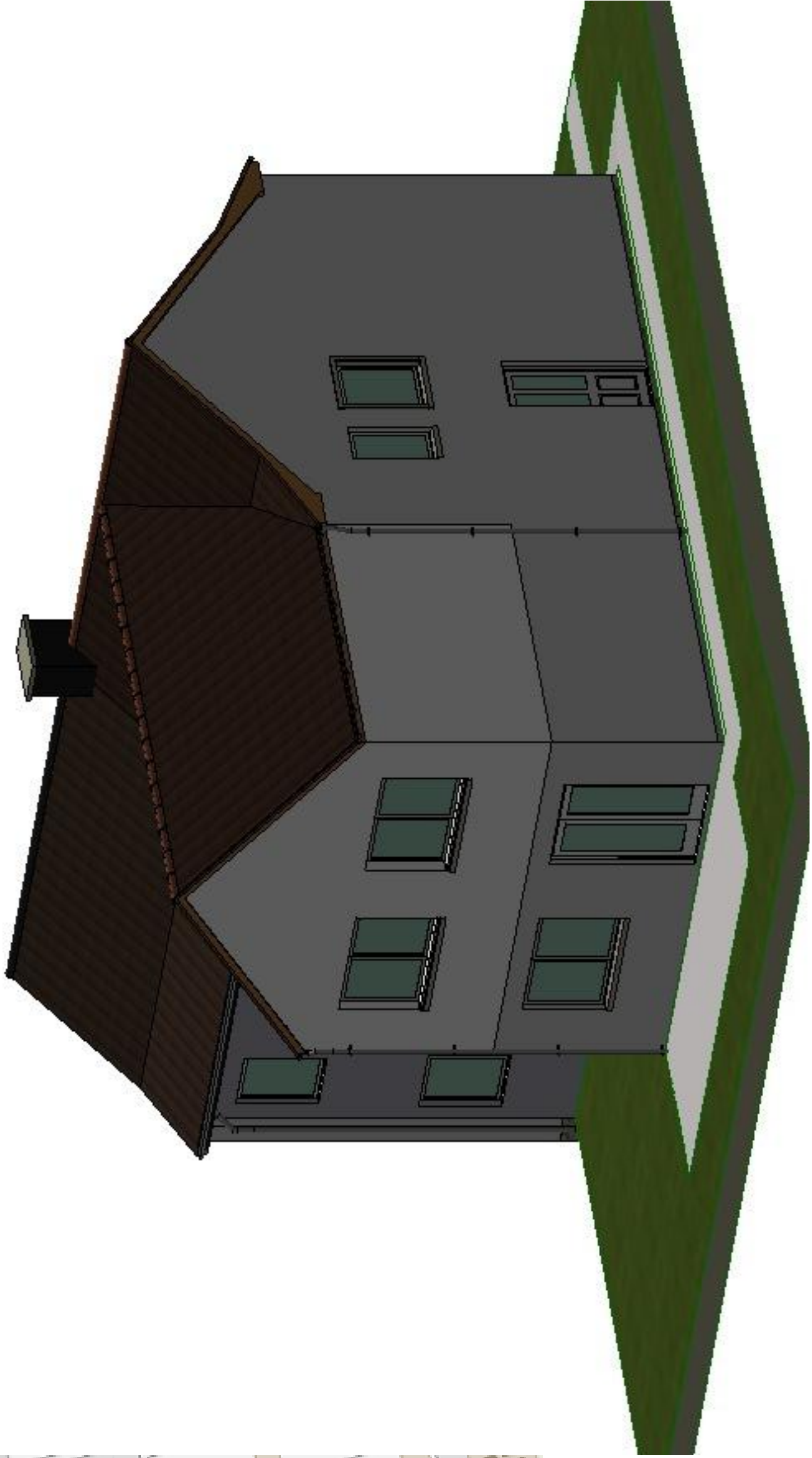
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• Roads design
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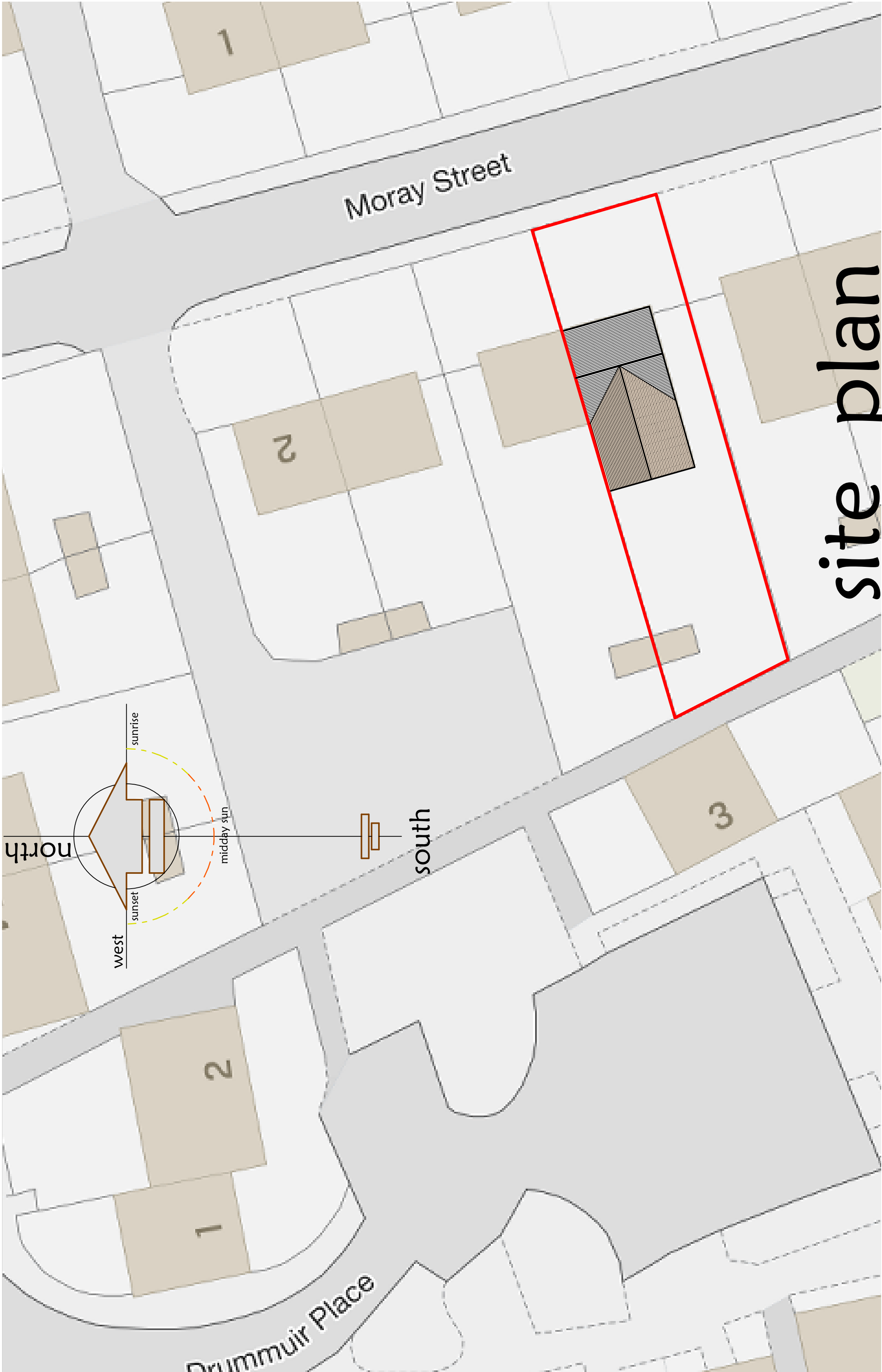
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Scale	1:50	Date	November 2020		
Drawn by	Martin Archibald	Signed	Martin Archibald		
Drawing No	34 : 2020 : 1b				



location plan

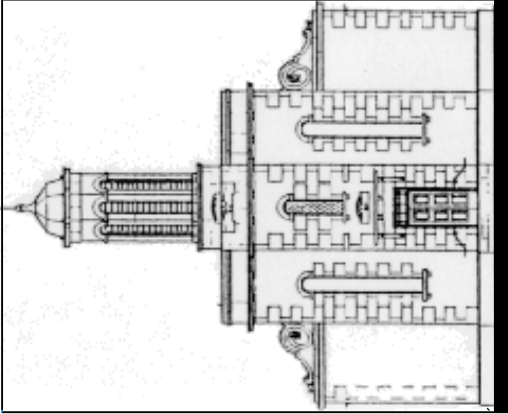


indicative perspective



site plan

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CARMOUTH
MORAY IV32 7SR
TYPHOON / MARCH 2020
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Project

Proposed alterations and extension
8 Moray street, Hopeman
for Donna McArthur

Scale
1:200 + 1:1000

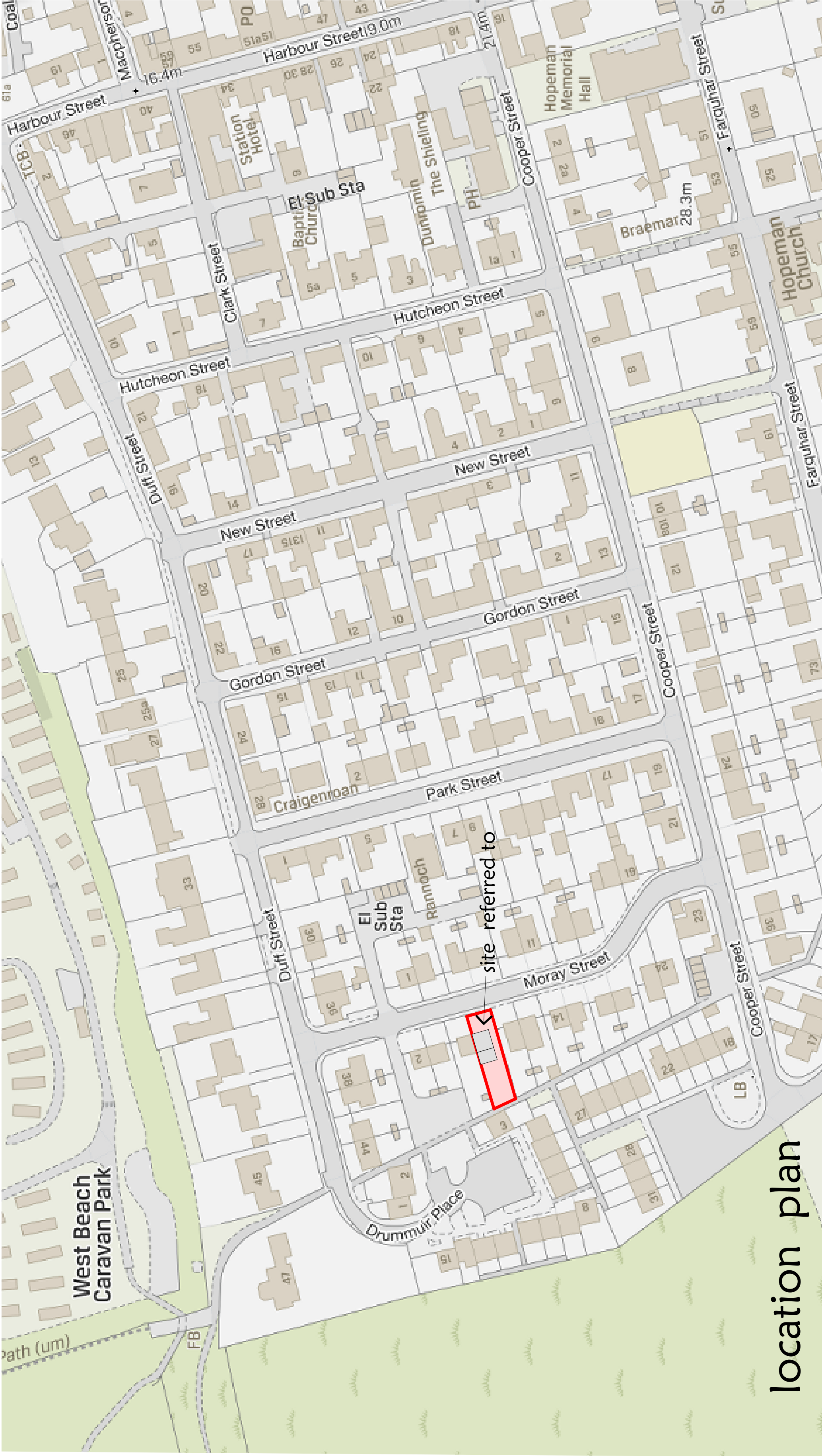
Date
November 2020

Drawn by
Martin Archibald

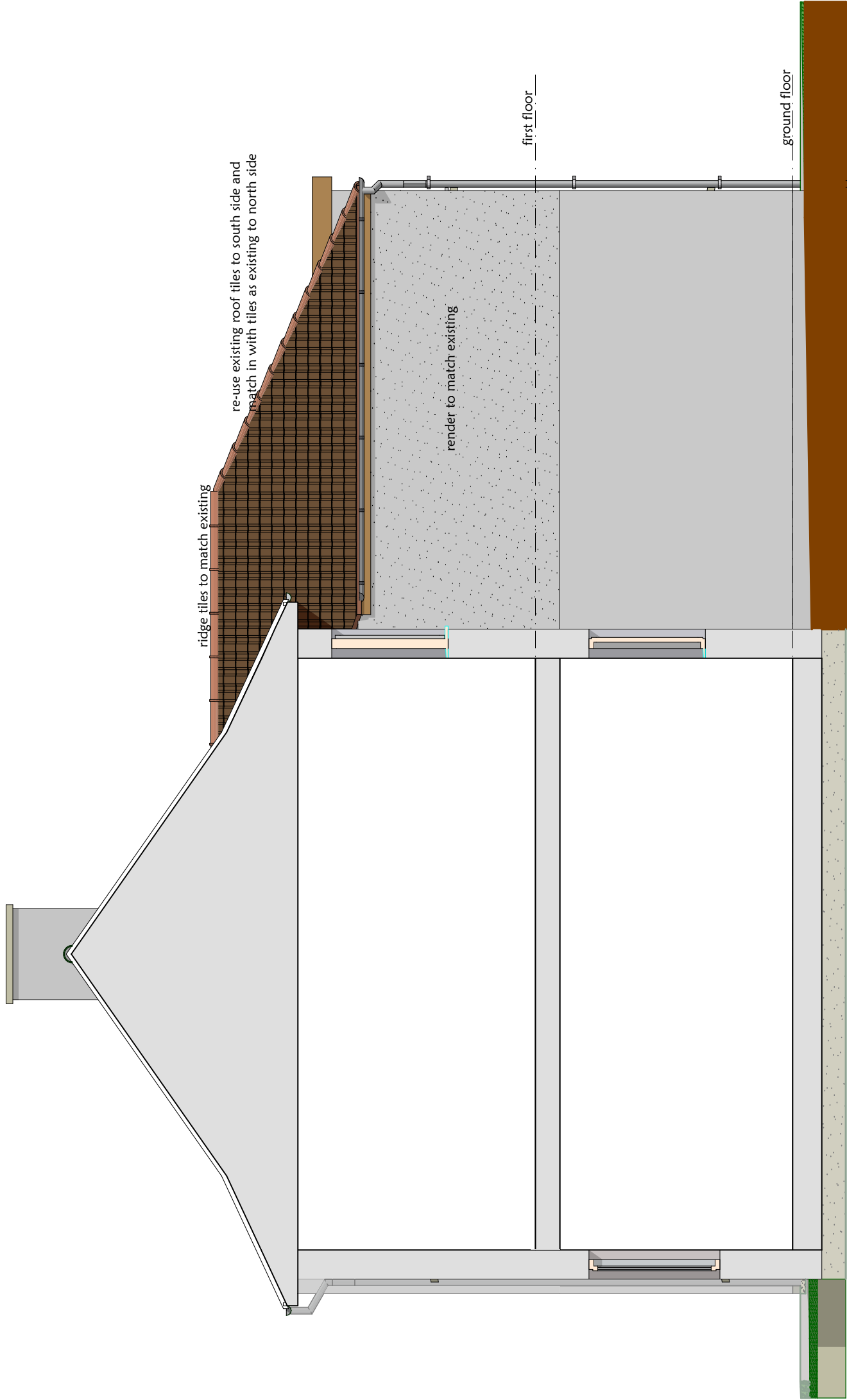
Signed
Martin Archibald

Drawing No
34 : 2020 : 2

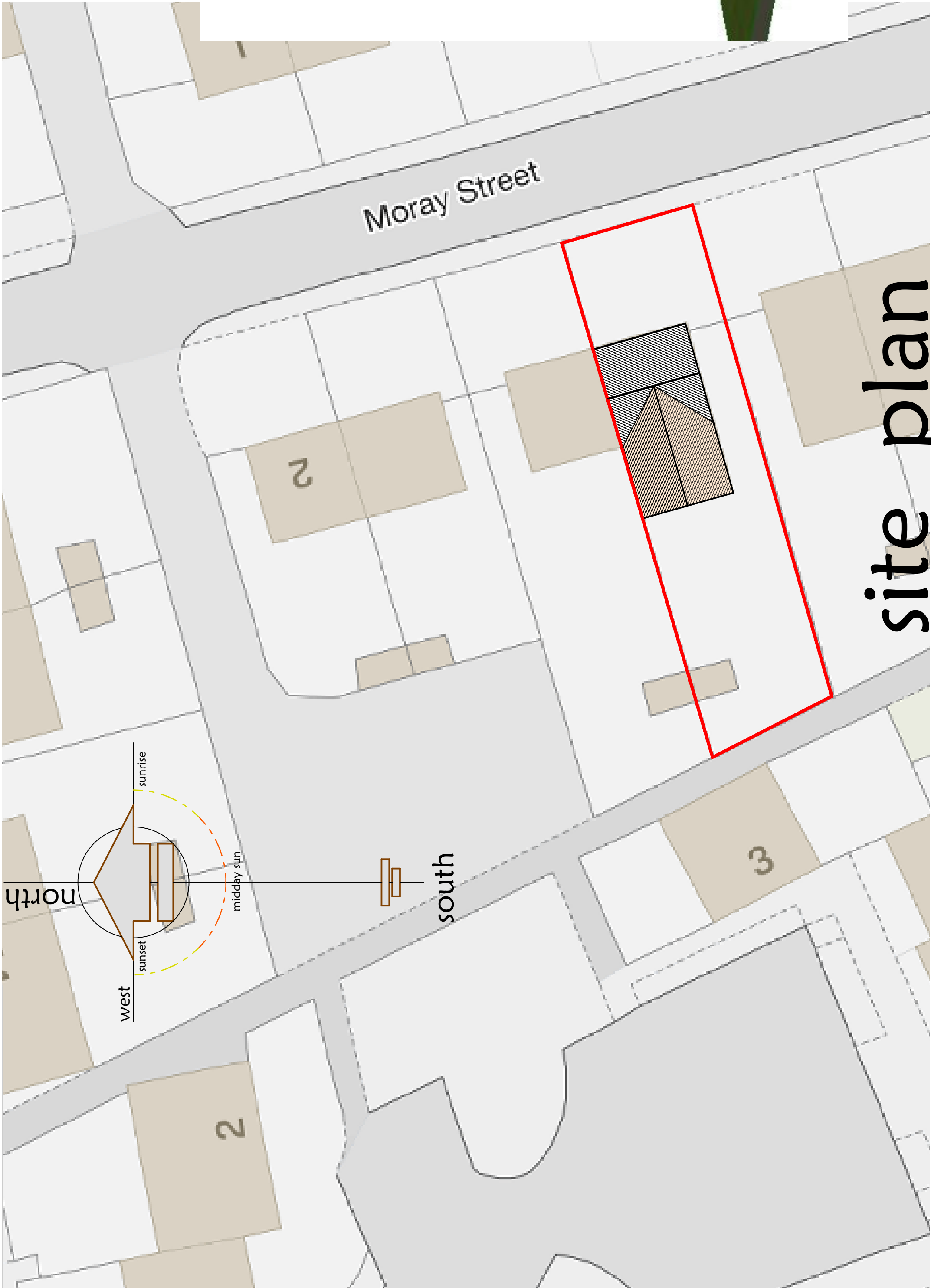
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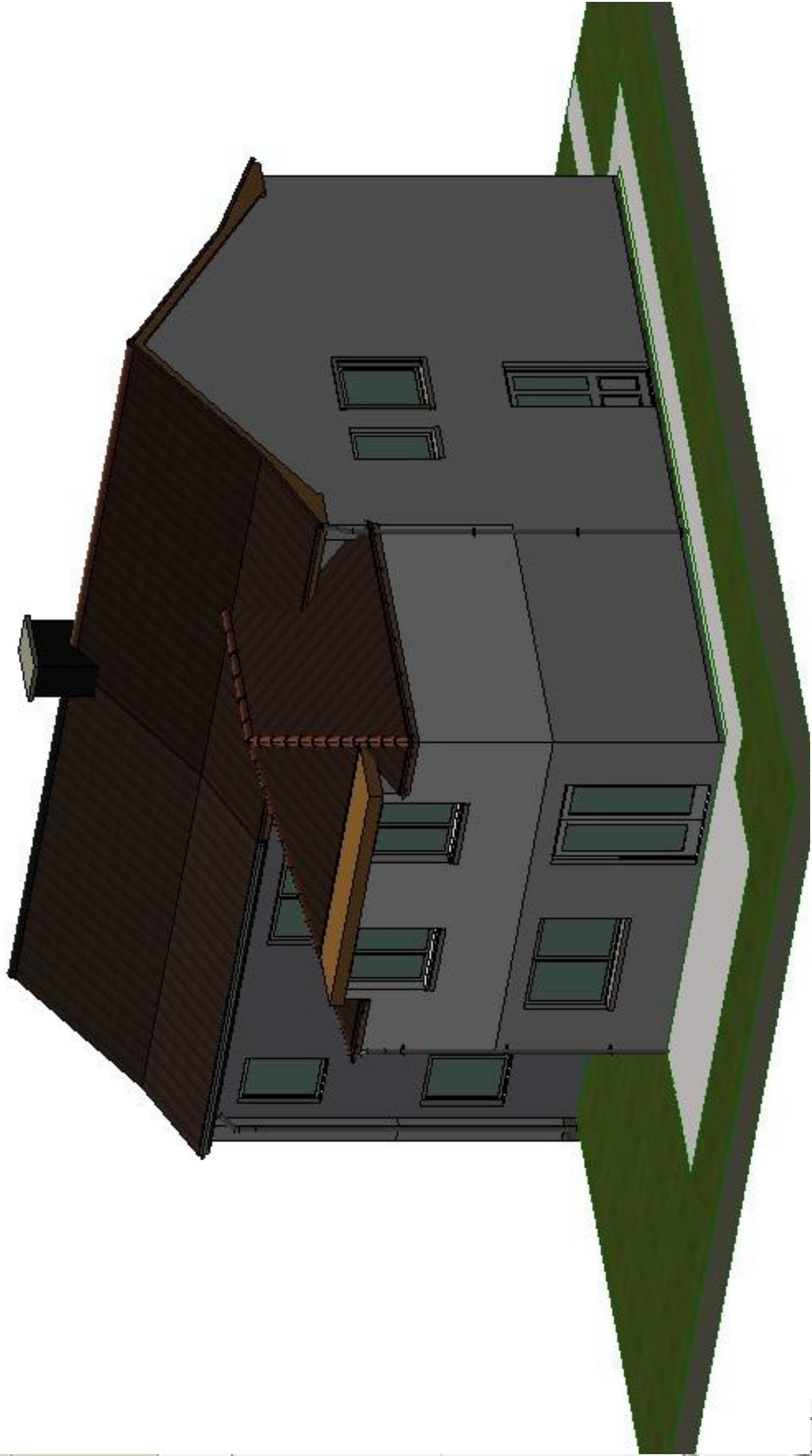
location plan



north sectional elevation



site plan



indicative perspective

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Project	Proposed alterations and extension 8 Moray street, Hopeman for Donna McArthur		
Scale	1:200 + 1:1000	Date	November 2020
Drawn by	Martin Archibald	Signed	Martin Archibald
Drawing No	34 : 2020 : 2b		