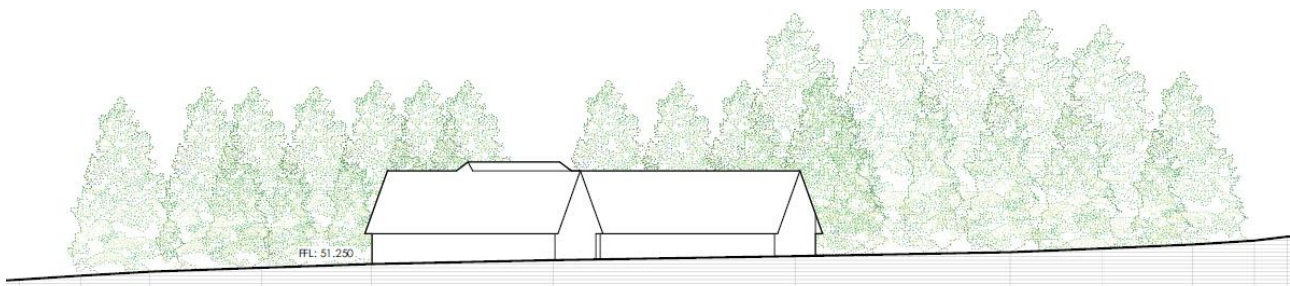


**LOCAL REVIEW BOARD**

**STATEMENT OF APPEAL**

*ERECT SINGLE STOREY DWELLING WITHIN GROUNDS OF  
TORRISTON HOUSE, PLUSCARDEN, ELGIN*



**April 2019**

**St. Brendans  
South Guildry Street  
Elgin  
Moray  
IV30 1QN**

**t.** 01343 540020  
**w.** cmdesign.biz

**4 Bridge Street  
Nairn  
Highland  
IV12 4EJ**

**t.** 01667 300230  
**w.** cmdesign.biz



St. Brendans  
 South Guildry Street  
 Elgin  
 Moray  
 IV30 1QN

planning**consultancy** • architectural**design** • project**management**

t. 01343 540020 f. 01343 556470  
 e. office@cmdesign.biz

Our Reference:	180005.CROCKART
Local Authority:	The Moray Council
Planning Application Ref:	18/01478/APP
Application Proposal:	Erect single storey dwellinghouse
Site Address:	within grounds of Torriston House, Pluscarden, Elgin
Appellants:	Ms Karen Gosling-Crockart
Date Application Validated:	20 November 2018
Council Decision Notice Date:	21 January 2019
Reason for Refusal:	<p><i>“The proposal is contrary to policies PP3, H7 IMP1 and E7 of the Moray Local Development Plan 2015 (MDLP) and the associated Guidance: Housing in the Countryside for the following reason:</i></p> <p><i>The site is part of a large open meadow and would be visually obtrusive roadside development. It would be a ribbon form of development diminishing the open separation of houses along the public road. The new house would be integrated in the landscape and cumulatively, the introduction of an additional dwelling would contribute to the build up of development with the surrounding area and thereby it would detract from and be detrimental to the character appearance and amenity of the surrounding rural area and the open rural character of the Pluscarden Vally esetting would be undesirably compromised.”</i></p>
<b>Application Drawings &amp; Supporting Documents:</b>	<ul style="list-style-type: none"> <li>• CMD Doc 001 – Moray Council Refusal Documents</li> <li>• CMD Doc 002 – Case Officer Handling Report</li> <li>• CMD Doc 003 – 180005.CROCKART.05PP</li> <li>• CMD Doc 004 – 180005.CROCKART.06PP</li> <li>• CMD Doc 005 – Copy of MLPR Main Issues Report for Torriston</li> </ul>

<b>Contents</b>	<ol style="list-style-type: none"><li>1. Introduction – page 3</li><li>2. Background – page 5</li><li>3. Statement of Case – page 8</li><li>4. Policy Compliance – pages 9</li><li>5. Planning Precedent – page 13</li><li>6. Conclusion – page 16</li></ol>

## 1. Introduction

1.1 The following Statement of Case, submitted by **CM Design Town Planning & Architectural Consultants**, has been prepared to support a Local Review Board submission relating to :

### Erect a single dwelling house - upon land formally recommended for large scale development by Council Officers in the current Local Development Plan Review

1.2 It is important to note that the **application site** referred to in this case was put forward for development in the current Local Development Plan by of the “call for sites” process (Council reference LDP2020\_BID\_TO01)

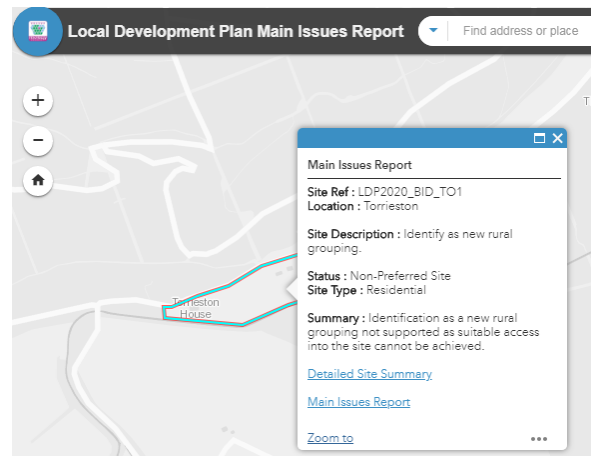
1.3 The submission by council (not by the appellant) for 2-3 new house sites was **not carried forward** due to rumoured concerns over vehicular access (See Doc No 007).

1.4 **We can confirm that there are no access issues at this site.**

1.5 In the midst of this Review statement, the appellant wishes to demonstrate that -

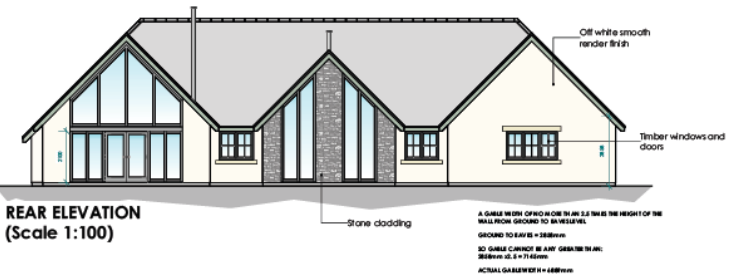
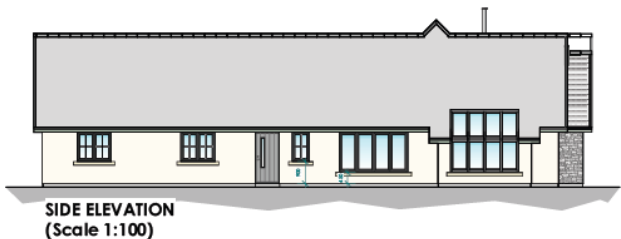
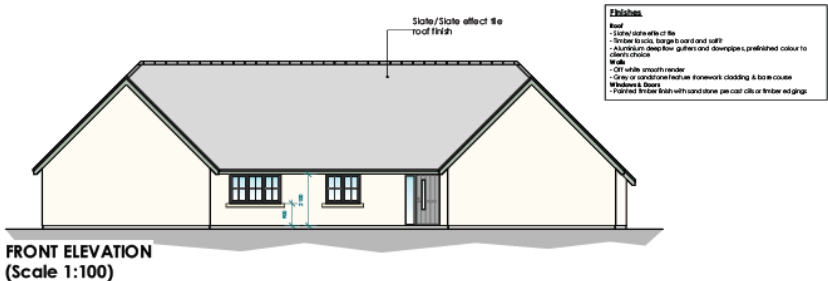
- Certain material considerations exist that might assist this case.
- This application could be deemed to **totally satisfy** the principle Policies that would permit approval under **IMP1 and H7** - see Section 4 – Policy Compliance
- Any issues previously raised with regard to **vehicular access have been dismissed**
- Whilst the site remains suitable for wholesale development as a rural grouping (as suggested by council in the MLDR process) this application for only a single house serves to demonstrate its suitability for future Local Plan Reviews.
- SEPA have **approved** the proposals in terms of flood management.
- The Transportation Department have **no objection** to the proposals.
- Previous LRB cases have supported development of this type – See Section on Planning Precedent.

1.6 Several written representations were received in the midst of the application process and generally related to; traffic hazard (dismissed), Impact on rural setting, drainage issues (dismissed), loss of privacy (dismissed), natural environment (dismissed), Loss of view (dismissed).



1.7 Whilst the worth and principle of precedent is understood, this report will also look at similar applications for sites that have been approved with significantly less merit in terms of setting, screening and backdrop.

1.8 This application represents an opportunity to contribute to Morays' need for more housing, in an area that has already been deemed to be appropriate by the Moray Local Development Plan Review process and in an area that is popular and likely to be developed quickly.

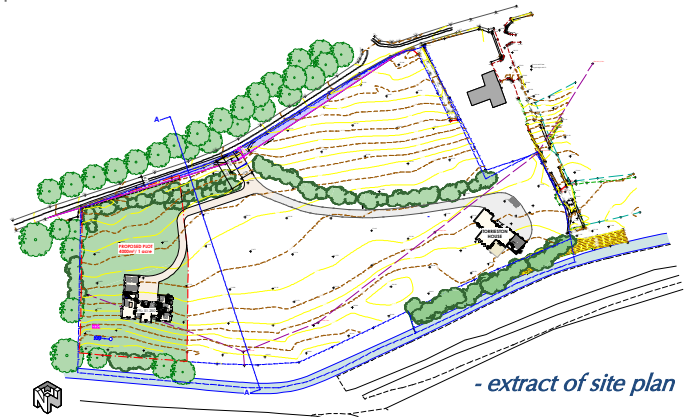


## 2. Background.

2.1 The appellant owns the parcel of land at Torrieston House which itself extends to circa 2.3ha.

2.2 The wider cluster of 3 houses at Torrieston occupies a similar size of land to the East and all within significant treeline on all sides.

2.3 The appellant is a business woman and local designer who wishes to develop and landscape the land at Torrieston in a tasteful and attractive way that will add value to the journey through Pluscarden Valley.



2.4 The release of the new house site will grant the required capital required to realise the vision for the extensive landscaping and management of what is, at the moment, an non-landscaped and unmanageable area of garden ground.

2.5 The access road shown on the site plan above is already established in principal and has been partially formed on site.

2.6 The site is afforded considerable backdrop by the trees to the West, South and North and can be screened further if required.



*Pic 1 - site view approach from East*

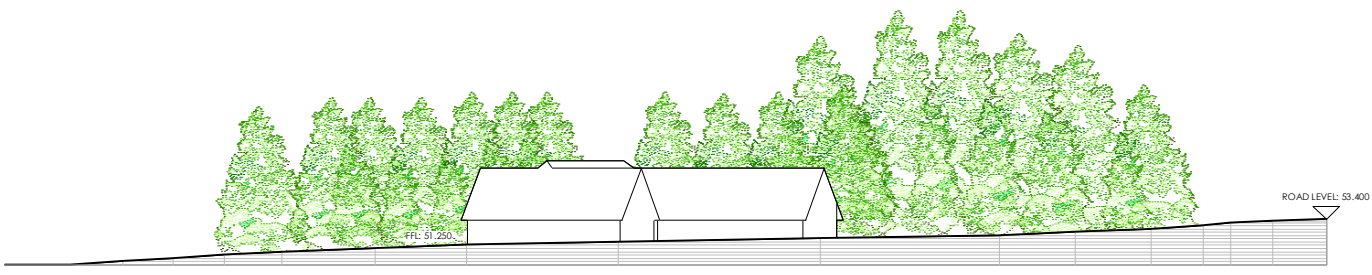


*Pic 2 - site view looking south*



*Pic 3 - site invisible from west*

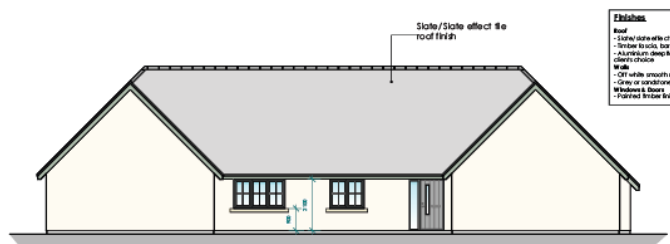
2.7 The topography of the site allows for the new house to sit below the only vehicular route that passes the site. (see pic below).



wireframe view of site section and slope

2.8 The proposed site **might only be seen for an instant** by traffic approaching from the East and cannot be seen from any other pedestrian or vehicular vantage point.

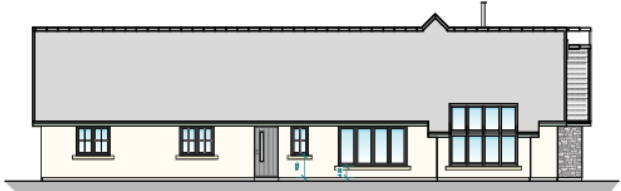
2.9 The site is of a scale that can easily reflect the settlement pattern of the area and enjoys several landscape features that further assist the suitability for development of this scale.



FRONT ELEVATION (Scale 1:100)

**Finishes**

- Roof - Stone/stone effect tile
- Timber fascia, barge board and soffits
- Aluminium window gaskets and downpipes, prefinished colour to client choice
- Stone
- Off white smooth render
- Clay or sandstone texture stonework cladding & base course
- Windows & Doors - Painted timber finish with sandstone pan coat tiles or timber edging



SIDE ELEVATION (Scale 1:100)



REAR ELEVATION (Scale 1:100)

Stone cladding

Timber windows and doors

A GARAGE WITH ONE DOOR TO BE 2.2 METRES THE HEIGHT OF THE WALL FROM GROUND TO BASELINE

GROUND TO EAVE IS = 2.80metres

50 GARAGE CEILING IS 2.40 METRES TO FINISH

BASELINE J.L.S = 71.60metres

ACTUAL GARAGE WIDTH = 4.80metres



SIDE ELEVATION (Scale 1:100)

### 3. Statement of Case

3.1 Section 25 of the Town and Country Planning (Scotland) 1997 Act (as amended) requires that planning applications be determined in accordance with the development plan **unless material considerations require otherwise**.

3.2 Moreover, it should be recognised that the **principle** of the current local development plan is to **guide** development decisions across Moray but **not to preclude** focussed and local decision making which better informs localised development at any given point in time.

3.3 The current Development plan requires that – *“In determining planning applications, the Council will apply appropriate weight to all of the issues and material considerations before reaching a decision”* - **There are material considerations** in this case that might allow for full compliance to be agreed or at least a departure from Policy to be permitted.

3.4 It is a fact that there is a need for additional housing in Moray and this was recognised in the recent Moray Local Development Plan process - see extract below of Main Issues Report – which **originally sought to use the site at Torrieston** to serve that housing need.

Planning Assessment	
Planning Conclusion	The bid proposes development on a site where there is an existing cluster of houses. The surrounding area has been identified as an area where there is a high demand for housing in the open countryside. As part of reviewing the rural housing policy, opportunities for development in existing groupings and clusters have been looked at to offer potential development opportunities.

*extract of Main Issues Report re Torrieston*

3.5 The opportunity within the MLDP Review process, to address the access issue that hindered the councils' own submission has now passed (this has since been resolved) but we contend that the original submission by council in respect of Torrieston should be considered to be a **significant material consideration** in this case

3.6 The appellant believes several other material considerations exist that might allow a Local Review Board to support this application or a departure from Policy in this unique case.

- The application site was suggested for development and a housing designation by Moray Council in the MLDP process
- The issue that hindered its progress in that process (access) has now been overcome and dismissed by the Roads Department
- Other LRB decisions to approve applications under similar circumstances might assist this case.

#### 2. Vision for Moray

- 2.1 Sustainable economic development is a key objective for both the Scottish Government and Moray Council. The economic and employment benefits of business and industrial growth should be a material consideration in any development proposals.
- 2.2 The Vision for Moray is strongly based on that of the Moray Economic Strategy.
- 2.3 It seeks to have:
- A growing population, which retains more of its younger people and attracts new residents to the area.
  - A broad business base with stable, well paid employment; a focus on high quality jobs in engineering; science and technology; growth of established tourism, food, drink sectors.
  - Sufficient housing land to meet the Housing Need and Demand Assessment, that will facilitate the provision of affordable housing, and to ensure high quality residential developments.



## 4. Policy Compliance

4.1 Three principal Policies are listed by the Case Officer for consideration and the appellant responds to each as follows. IMP1, H7 and E7

4.2. **Policy IMP1** – is a collective summary of the intent of other more specific Policies such as H7, described later in this report. The appellant **can comply with each and every one** of the policy criteria, as follows.

In looking at each sub-paragraph of this policy in detail, the appellant would like to respond as follows

- a) **Scale, density and character** – Notwithstanding that fact that the councils' own MLDP submission suggested developing the entire parcel of land, this application proposes to tuck a single house site into the west end of the site, along a substantial tree line and following the downward slope of the site.
- b) **Landscape integration** – The house design (single storey) seek to reflect the scale and style of traditional and contemporary houses that exist in the area and proposed landscaping will serve to integrate the sites further still.
- c) **Access** – It has been proven and the transport department have accepted and approved that the site can be safely accessed.
- d) **Water and drainage** – SEPA have approved the proposals
- e) **Renewable energy** – Current Building Standards will inevitably require a significant degree of low carbon/zero carbon technologies to enable compliance.
- f) **Open Space** – whilst there will not be a requirement on a small scale development like this, to provide open spaces, there will be plenty available by default and by virtue of the design intentions of the appellant for the entire site.
- g) **Landscape maintenance** – the site is currently a large and unwieldy garden ground which is unmanageable by the appellant. Developing a mere two sites will release the required capital to enable a programme of planting, maintenance and landscaping that will benefit Pluscarden Valley.
- h) **Conservation** – the land in question is of no agricultural merit and will be enhanced by development of this type.
- i) **Flooding** – the risk of flooding has been dismissed and approved by the Local Flood Management team
- j) **Pollution** – again this issue has been dismissed by SEPA who approve of the proposals. The detailed management of foul water will be addressed within any inevitable Building Warrant application.
- k) **Contamination** – this has been dismissed in the midst of the initial Planning Application
- l) **Agricultural purposes** – this proposal does not threaten or sterilise any workable reserves of mineral of prime agricultural land

m) **Waste management** – this will be dealt with in the midst of any Building Warrant Process

4.3. **Conclusion** – It can be seen from taking each of the paragraphs of IMP1, that this application can be seen to comply in general terms. It is therefore perhaps more interesting to examine the application's merits against the remaining grounds for refusal - **Policy H7**

4.4 **Policy H7** – is the specific Policy for assessing new housing in the countryside. This policy “**..assumes in favour..**” of new houses in the countryside providing all of the four stated criteria are met.

4.5 The four areas of criteria can be read on the adjacent extract of Policy.

4.6 The appellants proposal could be seen to comply fully with each paragraph detailed in the extract of H7 as seen on the attached pic and as follows -

**a) Response** - The pattern of settlement around Moray and more specifically on the Pluscarden Valley is very similar to what is being proposed. Small groupings of houses in one's and two's, nestled into treelines and often within large unmanageable rural garden grounds.

This site is NOT clearly visible in the landscape (as warned against in this paragraph) and can only be seen for a few hundred yards by drivers approaching from the East and is significantly screened from the North, West and South.

The sites are the exact opposite of everything that this paragraph warns against (ie the sites are not elevated, not on the skyline, not in an open setting etc)

**Summary** – Contrary to many other rural sites that have secured approval (even under Appeal) the house upon this application site could NOT be seen from almost any angle other than the few moments of any approach. This particular paragraph does not offer any **significant issues** of non-compliance that would justify refusal

**b) Response** – The gap between the application site and the surrounding houses is such that these proposals certainly do not represent any form of **ribbon development** and, whilst the application could possibly be justified as an “acceptable expansion of an existing housing group”, the sites actually rest on their own merit as an acceptable development of a portion of a very large garden ground without any impact upon existing properties or the character of the area.

#### Policy H7 New Housing in the Open Countryside

This policy assumes in favour of an application for a new house in the open countryside provided all of the following requirements are met:

##### Siting

- It reflects the traditional pattern of settlement in the locality and is sensitively integrated with the surrounding landform using natural backdrops, particularly where the site is clearly visible in the landscape. Obtrusive development (i.e. on a skyline, artificially elevated ground or in open settings such as the central area of a field) will not be acceptable;
- It does not detract from the character or setting of existing buildings or their surrounding area when added to an existing grouping or create inappropriate ribbon development;
- It does not contribute to a build-up of development where the number of houses has the effect of changing the rural character of the area. Particular attention will be given to proposals in the open countryside where there has been a significant growth in the number of new house applications; and,
- At least 50% of the site boundaries are long established and are capable of distinguishing the site from surrounding land (e.g. dykes, hedgerows, fences, watercourses, woodlands, tracks and roadways).

*extract of Policy H7*

##### Justification

The Plan aims to allow housing in the open countryside that can be easily absorbed into the landscape. New development should be low impact and reflect the character of the surrounding area in terms of the traditional pattern of settlement and the scale and design of housing. The introduction of suburban layouts and house styles and the incremental build up of new houses have the potential to alter the rural character and detrimentally impact on the area's high quality rural environment.

Proposals that add to an existing grouping, such as an established re-use or rehabilitation scheme, will be more satisfactorily integrated where they connect through built form, layout and landscape features. Development that adds to an existing suburban layout should be avoided. Infill development along a road or landscape feature may be appropriate where this does not detract from the character or setting of existing houses.

Innovative modern design and energy efficiency measures are encouraged to promote sustainable development.

The proposals leave sufficient land between neighbouring houses to negate the risk or appearance of ribbon development and furthermore, the 2 house arrangement carries the development into the garden ground rather than extending development along the carriageway.

**Summary** – this paragraph seeks to avoid unacceptable “build up” or “ribbon development” of which this proposal is neither. The garden ground at Torrieston House is significant and the development can co-exist with neighbouring houses without any impact upon these households whatsoever.

**c) Response** – Current Planning Policy in Moray has designated several areas of the county as being at risk of over development. Councils’ own suggestion that the entire site at Torrieston should be designated for housing in the emerging Local Plan would further demonstrate that there is capacity and demand for new houses in this area.

**Summary** – this paragraph guards against the character of an area being irreversibly changed by the continual addition of new housing. Again the, fact that council have suggested that Torrieston could contribute to the need for more housing in Moray within the next Local Plan, demonstrates the fact this site is entirely suitable for development as proposed.

**d) Response** – The sites enjoy the stated criteria of 50% of its boundaries being established. These boundaries are not merely fence lines but significant and mature treelines that provide screening and context.

**Summary** – This particular paragraph is very clear and not subject to opinion. The need for 50% boundaries are a matter of fact and this site complies fully.

4.7. **H7 Conclusion** – Whilst the concern that an area could be at risk of over development is understood, it can be clearly seen that this proposal complies with each of the paragraphs described above. Whilst 3 out of the 4 criteria could be at risk of different subjective opinions, it should be reiterated that Moray Council actually suggested that this land be developed in the current Local Plan review process, demonstrating its suitability and capacity.

**This application can therefore be deemed to satisfy Policy H7 in every way**

4.8. **Policy E7** – The aim of this policy to protect areas of strategically important landscapes from inappropriate development in Areas of Great Landscape Value (AGLV)

4.9 Policy E7 does not prohibit development but suggests that development in an AGLV must be of the highest standard in terms of siting and design and must not have an adverse effect on the landscape character of the area.

4.10 The Planning Case officer suggests conflict with this policy by the fact that the proposed house can be viewed from the public road whilst looking south over the Puscarden Valley. This might indeed sound quite significantly damning if it were not for the fact that the wonderful tree line backdrop to this site actually prevents a view over the valley and provides context for the application site.

4.11 The Planning Case officer suggests also that the proposals would “detrimentally change the rural character of the area”. It is difficult to understand how a single house site, which can only be seen for a few moments of any approach in a single direction, within a clearing already occupied by several houses, could be considered to have such an impact on the character of the wider areas.

4.12 Conclusion – The aim of policy E7 is clear and worthy of protecting a n area from urbanisation but this single house site, nestled into the sloping ground form, in front of a substantial tree line and only visible for a moment by passing vehicles, could not be considered to have the level of impact being suggested in the refusal notice.

## 5. Planning Precedent

5.1 Whilst it is fully understood that each application must be examined on its own merits, there are Planning Applications and LRB cases which might offer examples of similar circumstances that might contribute helpfully in this case.

5.2 One such case is LR184 of 2017 (Planning Application Ref No – 17/00358/APP) for a new house East of Westbank Farmhouse, Roseisle – as seen below.



5.3 This case refers to an application for development in the corner of an open agricultural field (not garden ground as in the appellants case) was also initially refused under **Policies IMP1 and H7**.

5.4 The site itself can be seen from all directions and from across vast portions of open farmland as can be seen from the following photographs.



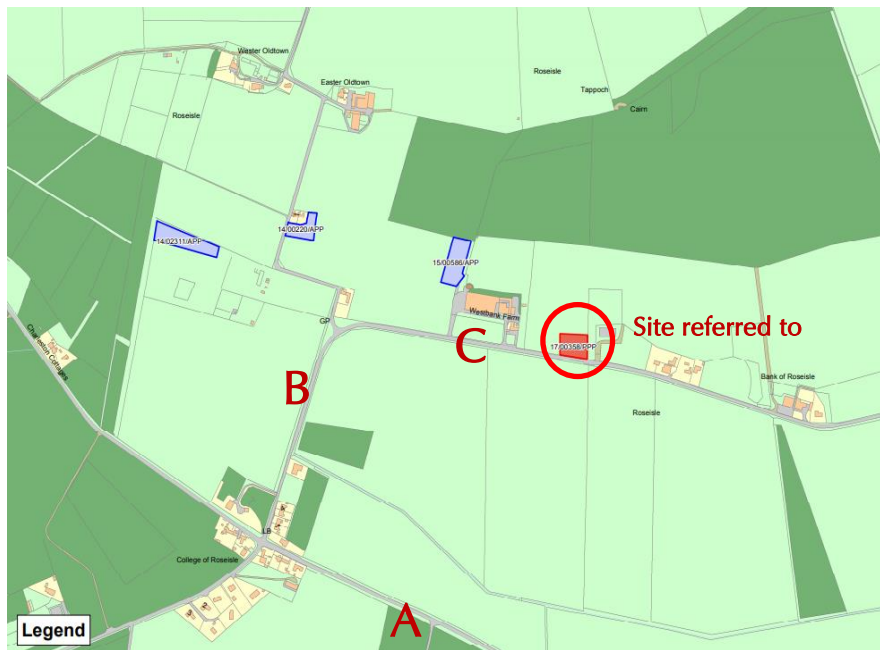
*Pic 4 - view from A on map*



*Pic 5 - view from B on map*



*Pic 6 - view from C on map*



5.5 It is not the intention of this Supporting Statement to in any way criticise the decision to approve this new house at Roseisle **but would suggest that the circumstances of the case offer some similarities** in which perhaps, our appellants case could be seen in an even greater light.

5.6 If it were deemed appropriate to approve the development in Roseisle, when it **did not** enjoy a significant backdrop of trees, suffered an elevated site and could be seen for many, many miles around, then it is hoped that the appellants application could be supported for reasons of similar merit.

5.7 The appellants site **cannot be seen** from anywhere apart from the 100m or so approach road, the sites sit lower than road and the houses will be dwarfed by the significant treeline to the rear and sides.

5.8 In summary, the appellants' application offers more mitigating circumstances and material considerations than the above historical case and could, in all fairness, be granted similar benefit.

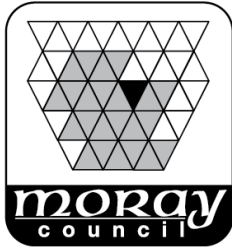
## 6. CONCLUSION

6.1 This statement of case has demonstrated

- That the proposals could be considered to **fully comply** with the umbrella **Policy IMP1** in general terms
- That the proposals could be considered to **fully comply** with the specific criteria of **Policy H7**.
- The proposed **SINGLE** house site would not change the character of the landscape and this complies with **Policy E7**
- That **material considerations** (ie similar appeals being upheld) do exist that would allow for a departure from Policy, if required.
- That support for the development of Torrieston for housing was demonstrated within the current Moray Local Plan Review and that the issues that hindered its progress in that process have been dismissed.
- That there is an opportunity to contribute to the overall housing needs of Moray and offer that opportunity in an area that is popular and has capacity to be developed quickly.
- That the issues raised by the written representations have been dismissed.
- That previous LRB cases offer helpful insight and support for this particular case.

6.2 It is respectfully requested that consideration be given to **upholding this Review**

**C.J.S Mackay**  
**Principle Designer & Planning Consultant**  
**CM Design**



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

**REFUSAL OF PLANNING PERMISSION**

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

TO Ms K Gosling-Crockart  
c/o C M Design  
St Brendans  
69 South Guildry Street  
Elgin  
Moray  
IV30 1QN

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

**Erect single storey dwellinghouse on Sites At Torriston Pluscarden Elgin Moray**

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

Date of Notice: **21 January 2019**

**HEAD OF DEVELOPMENT SERVICES**

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



**IMPORTANT**  
**YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

**SCHEDULE OF REASON(S) FOR REFUSAL**

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

The proposal is contrary to policies PP3, H7, IMP1 and E7 of the Moray Local Development Plan 2015 (MLDP) and the associated Supplementary Guidance: Housing in the Countryside for the following reason:

The site is part of a large open meadow and would be visually obtrusive roadside development. It would be a ribbon form of development diminishing the open separation of houses along the public road. The new house would not be integrated in the landscape and cumulatively, the introduction of an additional dwelling would contribute to the build-up of development within the surrounding area and thereby it would detract from, and be detrimental to, the character, appearance and amenity of the surrounding rural area and the open rural character of the Pluscarden valley setting would be undesirably compromised.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
180005.CROCKART.06PP		
180005.CROCKART.05PP		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](http://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.

## **REPORT OF HANDLING**

<b>Ref No:</b>	18/01478/APP	<b>Officer:</b>	Emma Mitchell
<b>Proposal Description/ Address</b>	Erect single storey dwellinghouse on Sites At Torriston Pluscarden Elgin Moray		
<b>Date:</b>	21/01/19	<b>Typist Initials:</b>	FJA

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Planning And Development Obligations	30/11/18	Contribution sought
Environmental Health Manager	12/12/18	No objection
Contaminated Land	27/11/18	No objection
Transportation Manager	23/11/18	No objection subject to conditions and informatives
Scottish Water	23/11/18	No objection
Moray Flood Risk Management	14/01/19	No objection
Scottish Environment Protection Agency	29/11/18	No objection
Forestry Commission	30/11/18	No objection

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3: Placemaking	Y	
H7: New Housing in the Open Countryside	Y	
E4: Trees and Development	N	
E7: AGLV and impacts on wider landscape	Y	
EP5: Sustainable Urban Drainage Systems	N	
EP9: Contaminated Land	N	
ER2: Development in Woodlands	N	
T2: Provision of Access	N	
T5: Parking Standards	N	

IMP1: Developer Requirements	Y	
IMP3: Developer Obligations	N	
EP7: Control of Develop in FloodRiskArea	N	

## REPRESENTATIONS

Representations Received

YES

Total number of representations received 10

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: Road Safety

- The original application on the site was not supported by Transportation and they objected to the proposal as the necessary visibility splays could not be achieved.
- Road levels are poor and are falling away at one side, added to which there is wall on the opposite side of the road; the combination of these two factors means that traffic is forced into the centre of the road before negotiating a very tight bend.
- There has been a very significant increase in traffic through the glen in recent times. This is a rural farming community and the road is used by very large tractors, lorries carrying livestock, log lorries, school buses, coaches accessing the abbey, oil tankers, cyclists and people going to businesses in Pluscarden. The road is used as a "rat run" to avoid the main route to Forres.
- For traffic travelling along the road, the access point is on a blind bend and is within a short distance of two concealed entrances, one to a private residence and one to a parking area used extensively by walkers and cyclists for access to Monaghty woods. The road is narrow (less than 4.5m) and on one side there is an old retaining wall with heavy undergrowth and on the other there is a distinct edge and drop off to the side of the surfaced road. Both these factors force oncoming traffic towards the centre of the road which makes the bend particularly dangerous. Additional traffic joining the road at this point or traffic turning into the entrance off the road would exacerbate the problem.
- There have been several near misses on the public road.
- Two vehicles cannot pass each other safely on the public road.
- When approaching from the east (Elgin) drivers do not get a full view of the current exit until after the apex of the bend. The proposed building would then immediately catch the driver's eye-line, possibly slowing reaction time and leaving only 50-60 metres (max) to avoid vehicles exiting.
- The existing road is no longer fit for purpose.
- The site line is restricted for the proposal especially coming west from Elgin.

### Comments (PO)

- With regards to planning application 18/00246/APP (the previous planning application on the site) Transportation were consulted on the proposal and their original consultation response requested further information to be submitted. The required information was submitted and as such Transportation did not object to the proposal subject to conditions and informatives being attached to the consent if it were to be permitted.
- Transportation have been consulted on the proposal and have no objection subject to conditions and informatives being attached to the consent if it were to be permitted. Therefore a safe access can be provided with the required visibility splays and sight lines.

### **Build Up**

- Another property within this area would have a cumulative impact on the surrounding area.
- Currently there are 4 houses (Westcroft, Torrieston Croft, Torrieston House & Torrieston).
- There is also an extant planning consent for a site at the hedges (reference 16/01833/app). These 5 houses and a further 1 would remove the rural nature of this area and constitute an unacceptable build up.
- All vehicles approaching from the east (Elgin) will see the house structure as this is direct view due to the angle of the road. Therefore this will impinge in the view of the valley as this will catch your eye directly and will therefore create an impediment of the landscape and produce the build-up on the ribbon development.

### **Comments (PO)**

- See observations section.

### **Siting**

- Wherever it is located on the site the proposed development would necessarily be a prominent feature in that landscape and would unavoidably diminish the rural character of the setting.
- Policy H7 is quite specific in terms of not to detract from the character or setting of the surrounding area (item B) and 6 houses in one area will change the character of this rural area and have significant impact on the natural qualities of the area within the Pluscarden valley which is designated as an "Area of Great Landscape value (AGLV).
- Believe that any form of development will impact on the Countryside landscape and have a significant impact on the AGLV which is contrary to policy E7.
- It will cause ribbon development along the Pluscarden road.
- Provision within the Housing in the Countryside supplementary guidance provides adequate reasons for refusal on this application on the grounds that it is not compliant and creates build-up through cumulative impact.
- This building application will have an enormous impact on the space, peace and tranquillity neighbouring properties now enjoy. It will destroy the rural nature of the area.
- The Pluscarden Glen with its Abbey dating back to 1230 is recognised as a major historic visitor destination in Moray and plays a significant role in the Moray Council's, Moray's Great Places programme. New developments in this area have an adverse effect on the natural beauty and amenity of the area.
- The proposed development will create the potential for a ribbon development in an area of natural beauty which also embraces the Forestry Commission Scotland walks at Torrieston and Monaughty.
- It will reduce the great asset the natural landscape of this historic glen provides.

### **Comments (PO)**

- See observations section.

### **Design**

- The application is for a very large property which would be the first view of traffic entering the Pluscarden valley and spoil the rural character of this area.

### **Comments (PO)**

- The design of the proposal is acceptable under policies H7 and IMP1 of the Moray Local Plan.

### **Comments (PO)**

- See observation section.

### **Previous Application on the site (18/00246/APP)**

- Reasons given for previous application refusal on the site still stand.

### **Comments (PO)**

- See observations section.

### **Views**

- When travelling from Elgin the location is in the foreground of the first view the traveller has of the Pluscarden valley.
- Contrary to the content in the supporting statement, by moving the dwelling to the rear of the site it becomes more visible from the unclassified road (Pluscarden to Manbeen) and also the farm road which connects Wester Foresterseat to Easter Foresterseat stealing's and the properties between. This would impact on the view looking west towards the abbey.
- Comments (PO)
- See observations section.
- Please note views are not a material planning consideration.

### **Drainage**

- The site may not have flooded but the north bank of the burn suffered damage and erosion in the floods of 2002 and again in flash flooding (August 2014).
- The footprint of such a large building could affect the natural drainage of this meadow which was once maintained and grazed. The water runoff from such a large area may lead to instability of the bank of the burn. Soakaways could compound the problem, concentrating water in such close proximity to the burn.

### **Comments (PO)**

- SEPA and Moray Flood Risk Management (MFRM) were consulted on the proposal and have no objections.
- A DIA was submitted. This was assessed by MFRM who were satisfied with it. If consent were to be permitted the DIA would be stamped as part of the approval.

### **Wildlife**

- If the proposal were to be permitted, there are concerns for wildlife including red squirrels, pine martens, otters, bats, shrews and voles and badgers, which are regularly seen in the area, during construction.
- Further loss of these animals' habitat or disturbance would not help their populations.
- Works to remove weirs on the Black Burn was carried out a few years ago to encourage migratory fish (sea trout and salmon) to return upstream to spawn. As the proposed site is so close to the burn it would almost certainly affect the integrity and purity of the burn.

### **Comments (PO)**

- Some of the animals mentioned are European Protected Species therefore are protected by the law under the Habitats Regulations 1994.
- It is unlikely given the small nature of the proposal that if it were to be permitted it would have a negative impact on existing wildlife within the area and the nearby burn.

### **Other**

- Moray Council Main Issue Report 2018 (reference LDP2020\_BID\_T001) reviewed this area to include as a rural grouping & concluded that this would not be supported. Due to its "impact on landscape the bid is not supported" and " transportation - bid not supported - visibility splays are restricted and require third party land. Road widening to 5.5m to enable two way movement. The level of the road is also falling at that location which further limits sight lines" The main point in this report by Planning & Facilitation for the LDP 2020 states "impact on landscape the bid is not supported". Within the final document it states "suitable access into the site cannot be achieved".
- Building and engineering work will cause pollution of the Black burn.
- The applicant is a property developer and it seems wrong that she should be allowed to build

in an open field space and destroy the surrounding environment.

### **Comments (PO)**

- The current application is not being supported due its impact on the landscape. Transportation do not object to the proposal subject to conditions and informatives being attached to the planning consent.
- It is speculation that the building and engineering works would cause pollution to the burn.
- Who the applicant is, is not a material planning consideration.

## **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

### **Proposal**

- Planning permission is sought for the erection of a single storey dwelling with attached garage at Torrieston House, Pluscarden.
- The total floor area of the dwelling is 285 sqm in size (including the double garage).
- External materials include off white smooth render finish with slate/slate effect tile roof finish. The proposal has large glazed gable on the rear elevation.
- Access to the site is taken from the existing access to Torrieston House from the public road.
- Private drainage arrangements with a new septic tank are proposed. It is intended that the proposal is served by the public water supply.

### **Site Characteristics**

- The site is located within a large meadow and is within an Area of Great Landscape Value (AGLV).
- The site is located approx. 2.7 km south west of Miltonduff.
- The site is approx. 4000 sqm in size.
- The proposed site access is located circa. 30m to the east of the site at the existing access to Torrieston House. A new track is proposed from the access.
- Tall mature conifer trees are located on the western and southern boundaries.
- The proposal is set within a western part of a large open meadow. The eastern boundary is undefined.
- The public road is located along the northern boundary.

### **Site and Surrounding Areas History**

01/01725/FUL- The proposals for 2 houses are built, and are to the east of the site, across an open meadow. This consent involved the demolition of a croft at what is now "Torrieston Croft" (western-most house) and "West Croft" (eastern-most).

02/02365/FUL has been mis-plotted in Uniform - at the time that application was permitted the house on Plot "A" (02/02051, site now identified as "West Croft" on the OS base map) had been completed. 02/02365/FUL was for a revised house type, understood to refer to this being a revision of 01/01725/FUL which was the original full consent for 2 houses - besides these there are no other previous applications that could have been 'revised'.

09/00133/OUT - The proposal is for a single dwelling which is now built (Torrieston House), it is located to the east of the site, south of Torrieston Croft. Subsequent planning applications were submitted to renew (12/01848/APP) and revise the design and site boundaries of the proposal (15/00888/APP and 16/0020/APP).

16/01833/APP - Proposal for a dwelling approved, it is located east of Torrieston House.

18/00246/APP - A proposal for 2 dwellings on current proposal site was refused (16th April 2018). The decision was appealed to the Local Review Body however the decision was upheld in August 2018.

### **Policy**

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

### **Siting and Design (H7, IMP1, PP3 and the associated Supplementary Guidance: Housing in the Countryside)**

Policy H7: New Housing in the Open Countryside of the Moray Local Development Plan 2015 contains the necessary siting and design criteria for assessing new housing proposals in the countryside. This aims to allow new housing in the open countryside provided it can be easily absorbed into the landscape, and for new development to be low impact and to reflect the character of the surrounding area. Policy IMP1 Developer Requirements requires new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to be comply with set criterion (detailed within policy). These include amongst others the requirement for new development to be of a scale and character appropriate to its setting and for development to integrate into the landscape. Policy PP3 states that developments should maintain and enhance the natural landscape features and the distinctive character of the area.

The proposal site is part of a large open meadow in an extensively forested area. Across the meadow there are distant views of the attractive Pluscarden valley. There are already a number of new houses west of the meadow area (detailed above) in which the current proposal sites lie, which have already contributed to the rural character of the setting being eroded.

The proposal represents an obtrusive roadside development. It is noted that planting is proposed along the roadside which would provide screening to the proposal. With the site being part of an open meadow overlooking Pluscarden Valley, screening along the roadside would change the open rural character of this area and therefore is not supported. The proposal combined with the new and established housing in the vicinity, would represent ribbon development along the roadside. A significant build-up of housing is represented by the proposal when pooled with the neighbouring dwellings thereby it would detract from, and be detrimental to, the character, appearance and amenity of the surrounding rural area and the open rural character of the Pluscarden valley setting would be undesirably compromised. On this basis the proposals is contrary to policies H7, IMP1 and PP3.

The design of the proposal is acceptable in terms of both roof pitch and gable width and in terms of the external material finishes in terms of policy H7.

### **Areas of Great Landscape Value (AGLV) (E7)**

The aim of policy E7 is to protect areas of strategically important landscapes from inappropriate development. Development proposals which have an significant adverse upon an Area of Great Landscape (AGLV) will not be supported unless they incorporate the highest standards of siting and design and will not have significant adverse effect on the landscape character of the area.

The proposal is located within the Pluscarden Area of Great Landscape Value. The proposal will have a significant adverse effect on the landscape character of the area as it will be viewed from the public road whilst looking south over Pluscarden valley. The proposal does not demonstrate high standards of siting as it will detrimentally change the rural character of the area. The proposal therefore does not comply with policy E7 and is an inappropriate form of development for the site.



### **Access and Parking (T2 and T5)**

Policy T2 requires that new development proposals are designed to provide the highest level of access and for end users. Under policy T5 proposals must conform with the Council's current policy on Parking Standards.

The Transportation Manager was consulted on the proposal and does not object subject to conditions and informatives being attached to the consent.

### **Drainage and Water (EP5 and EP10)**

Policy EP5 requires that surface water from development should be dealt with in sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. Policy EP10 aims to achieve the satisfactory disposal of sewage.

Further information regarding the drainage for the proposal was sought in the form of a Drainage Impact Assessment. The assessment was required to demonstrate that the post-development runoff rate does not exceed the pre-development runoff rate or increase flood risk through discharge to a receiving watercourse. The DIA was also required to demonstrate that the surface water drainage system adopts Sustainable urban Drainage System (SuDS) principles and specifications in accordance with current legislation and guidelines, such as CIRIA C697 - The SuDS Manual.

A DIA was submitted and Moray Flood Risk Management have no objections to it. Therefore if the proposal was to be permitted the DIA would be stamped as part of the consent.

In relation to policy EP10 and in the absence of any public foul drainage system being available, a septic tank and soakaway arrangement is proposed within the site. The acceptability of this non-mains drainage arrangement will also be determined as part of Building Standards requirements.

### **Control of Development within Flood Risk Areas (EP7)**

Policy EP7: Control of Development in Flood Risk Areas states that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the risk of flooding elsewhere. Where impacts are identified they should be satisfactorily mitigated without passing on the flood risk elsewhere.

The southern boundary of the development is subject to Fluvial and Pluvial Flood Risk for 1:200 year events, according to SEPA Flood Maps.

Moray Flood Risk Management were consulted on the proposal and requested a Level 1 Flood Risk Assessment however on liaising with SEPA the requirement for this was removed. SEPA had further topographic information that demonstrated that the proposed house is considerably elevated above the Black Burn and that in times of flood, out-of-banks flows would spill onto the land on the southern bank of the Burn and away from the proposed development making it unlikely that the site would be a medium to high risk of flooding.

With regards to flooding SEPA and MFRM have no objection to the proposal.

### **Developer Obligations (IMP3)**

As from 14 October 2016, the Council has adopted Supplementary Guidance on developer obligations as a material consideration in the determination of planning applications. The proposal has been subject to an assessment for developer obligations.

If the application were to be permitted a contribution £619.20 towards healthcare would be sought prior to consent being issued.

### **Recommendation**

Refuse.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

**HISTORY**

Reference No.	Description		
18/00246/APP	Erect 2no dwellinghouses within Grounds Of Torrleston House Torrleston Pluscarden Elgin Moray		
	Decision	Refuse	Date Of Decision

**ADVERT**

<b>Advert Fee paid?</b>	<b>Yes</b>	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	Departure from development plan No Premises	20/12/18
PINS	Departure from development plan No Premises	20/12/18

**DEVELOPER CONTRIBUTIONS (PGU)**

<b>Status</b>	<b>CONT SOUGHT</b>
---------------	--------------------

**DOCUMENTS, ASSESSMENTS etc. \***

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

Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Supporting Statement	
Main Issues:	Information supporting the proposal	
Document Name:	Drainage Impact Assessment	
Main Issues:	Information on drainage	

**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)			

- Finishes**
- Roof**
- Slate/ slate effect tile
  - Timber fascia, barge board and soffit
  - Aluminium deepflow gutters and downpipes, prefinished colour to clients choice
- Walls**
- Off white smooth render
  - Grey or sandstone feature stonework cladding & basecourse
- Windows & Doors**
- Painted timber finish with sandstone precast cills or timber edgings



**FRONT ELEVATION**  
(Scale 1:100)



**SIDE ELEVATION**  
(Scale 1:100)



**REAR ELEVATION**  
(Scale 1:100)

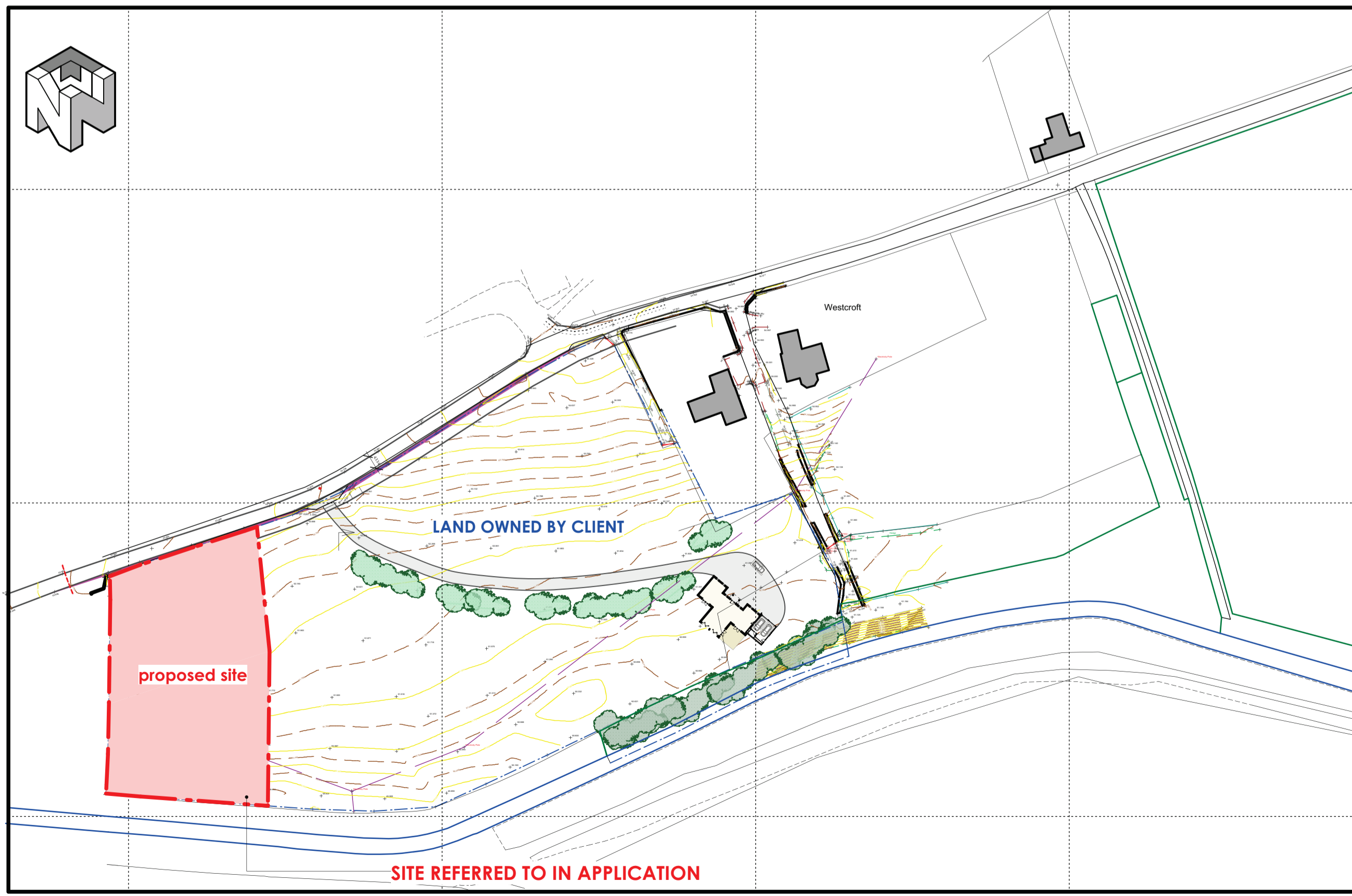
A GABLE WIDTH OF NO MORE THAN 2.5 TIMES THE HEIGHT OF THE WALL FROM GROUND TO EAVES LEVEL.  
 GROUND TO EAVES = 2858mm  
 SO GABLE CANNOT BE ANY GREATER THAN:  
 2858mm x 2.5 = 7145mm  
 ACTUAL GABLE WIDTH = 4887mm



**SIDE ELEVATION**  
(Scale 1:100)



**FLOOR PLAN**  
(Scale 1:100) Total floor area: 285sqm



**LOCATION PLAN**  
(Scale 1:1250)

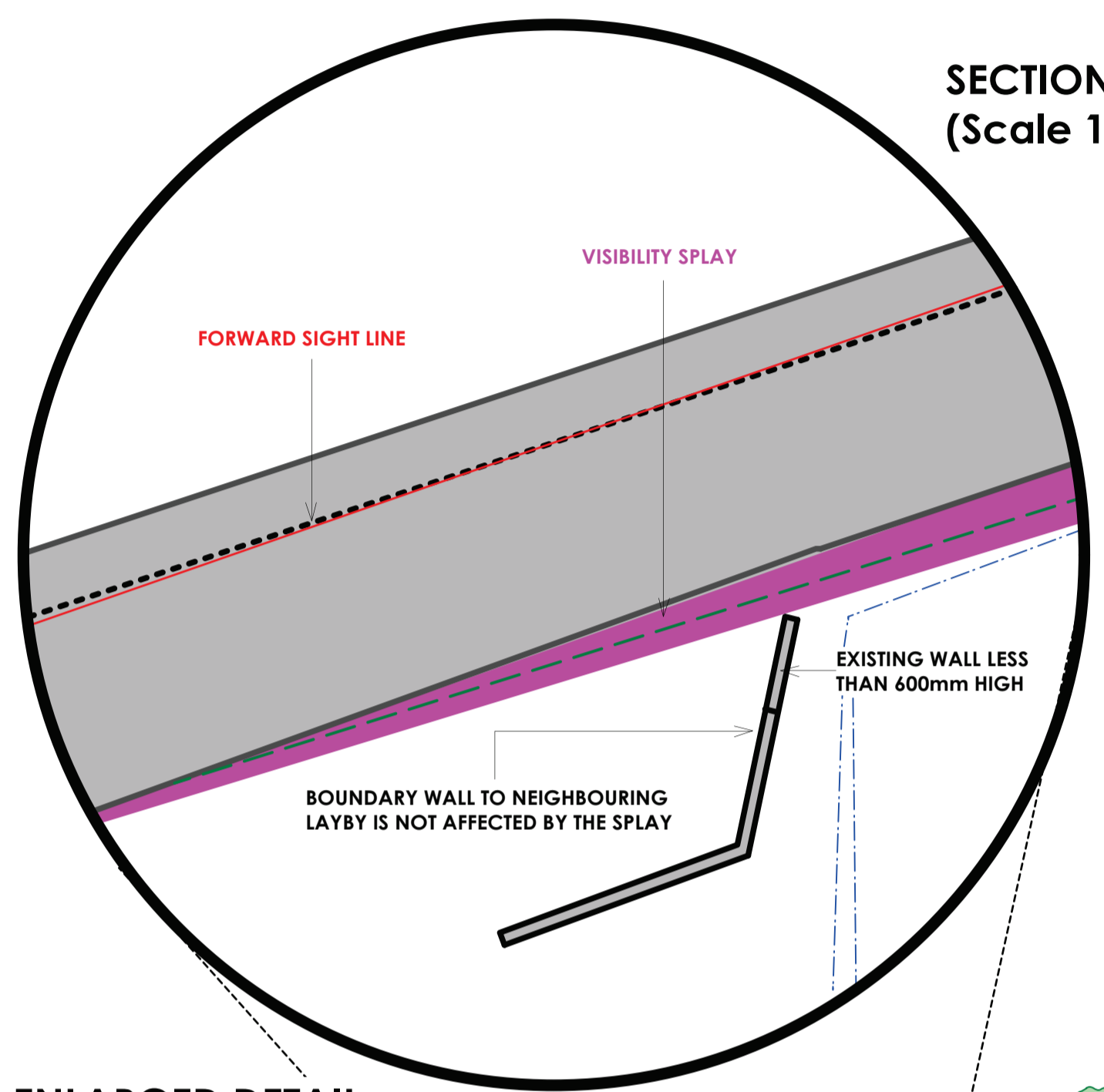
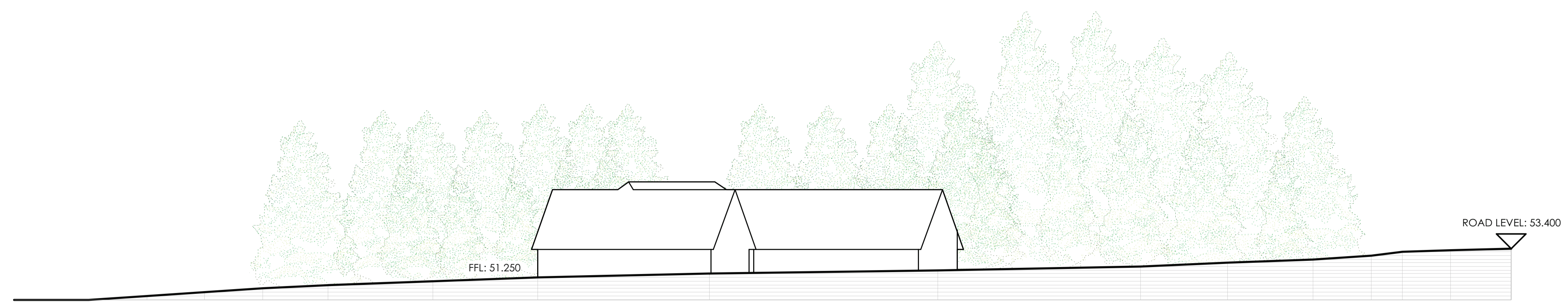
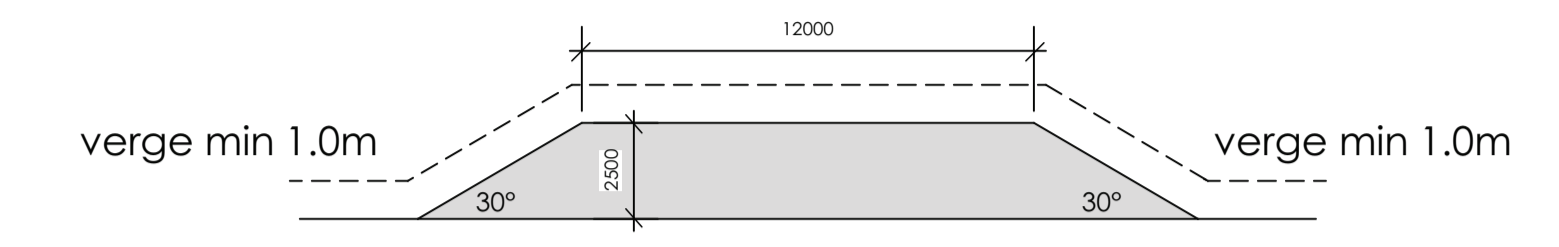


**HEAD OFFICE - MORAY**  
 51 Brendans, 69 South Guildry Street, Elgin, IV30 1GN  
 1 01343 540020  
**HIGHLANDS**  
 4 Bridge Street, Nairn, Highlands, IV12 4EJ  
 1 01667 300230  
 m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

**LOSSIEMOUTH OFFICE**  
 Ellet, James Street, Moray, IV30 6BX  
 1 01343 810175  
**DEVON OFFICE**  
 1 01392 345566

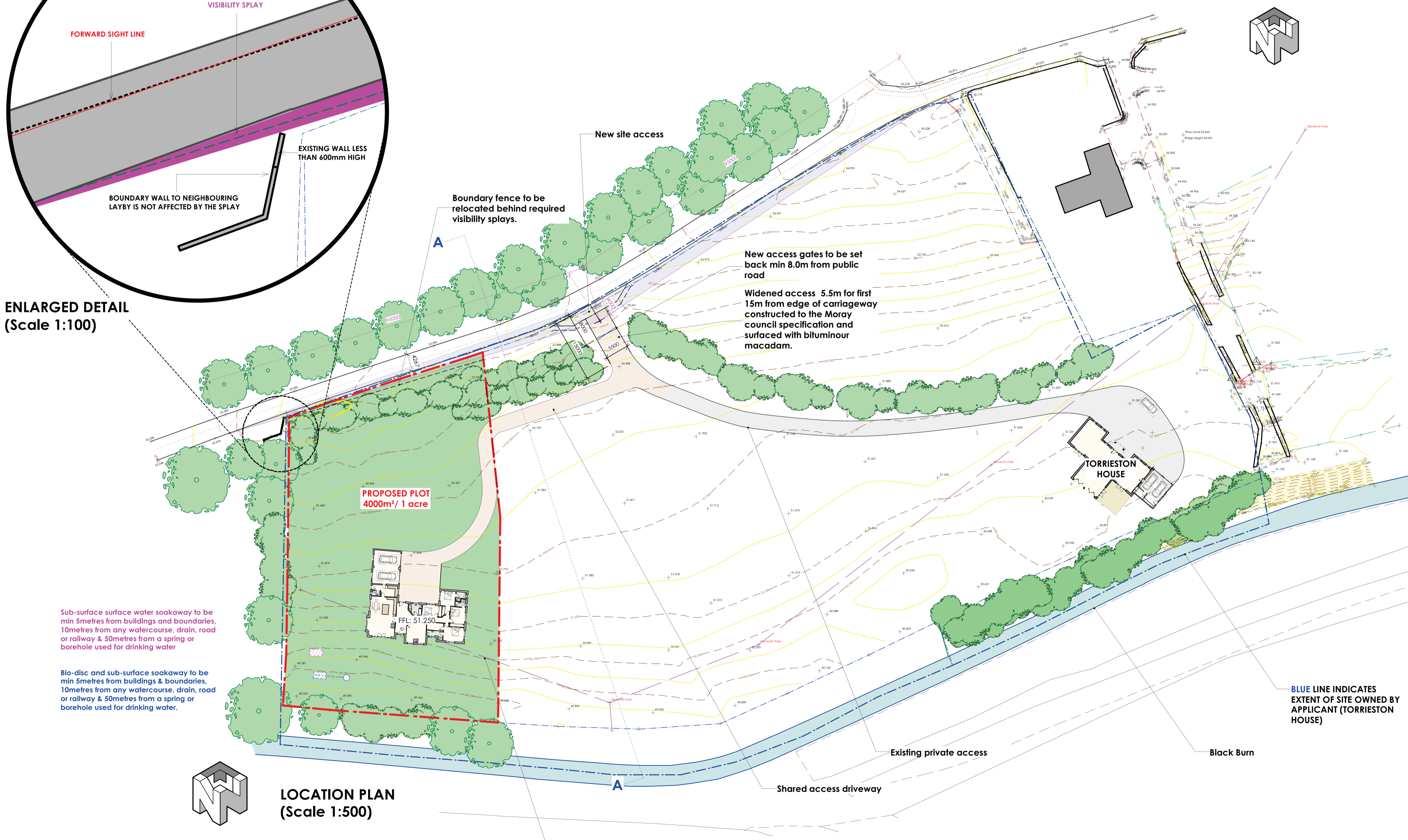
Ms. Gosling-Crockart  
 NEW SINGLE STOREY WITHIN GROUNDS OF TORRIESTON HOUSE, TORRIESTON, PLUSCARDEN  
**PLANNING PROPOSALS**  
 PLANS, ELEVATIONS & LOCATION PLAN  
 Date: Amendments: Rev:  
 Drawn By: A. CARSWELL Date: 02.11.18 Checked By: Date:  
**180005.CROCKART.06PP**

New vehicular access formed onto public road, with a access layby 12.0m long by 2.5m wide with 30 degrees splayed ends to be provided at the edge of the public road to allow visiting and service vehicles to park clear of the public road. The vehicular access will lead off the layby. The layby will be constructed to the Council specification and be surfaced in bitmac.



**SECTION VIEW A-A**  
(Scale 1:200)

**ENLARGED DETAIL**  
(Scale 1:100)

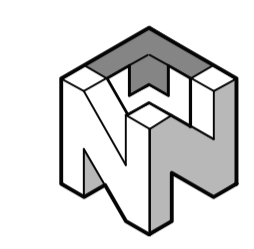


**LOCATION PLAN**  
(Scale 1:500)

Sub-surface surface water soakaway to be min 5metres from buildings & boundaries, 10metres from any watercourse, drain, road or railway & 50metres from a spring or borehole used for drinking water

Bio-disc and sub-surface soakaway to be min 5metres from buildings & boundaries, 10metres from any watercourse, drain, road or railway & 50metres from a spring or borehole used for drinking water.

BLUE LINE INDICATES EXTENT OF SITE OWNED BY APPLICANT (TORRIESTON HOUSE)



**cmdesign**  
architectural consultants

**HEAD OFFICE - MORAY**  
57 Barendans, 69 South Guildry Street, Elgin, IV30 1GN  
T 01343 540020

**HIGHLANDS**  
4 Bridge Street, Nairn, Highlands, IV12 4EJ  
T 01467 300230  
M 0781 3872818 W cmdesign.biz E office@cmdesign.biz

**LOSSIEMOUTH OFFICE**  
Ellet, James Street, Moray, IV30 6BX  
T 01343 810175

**DEVON OFFICE**  
T 01392 345566

---

**Ms. Gosling-Crockart**

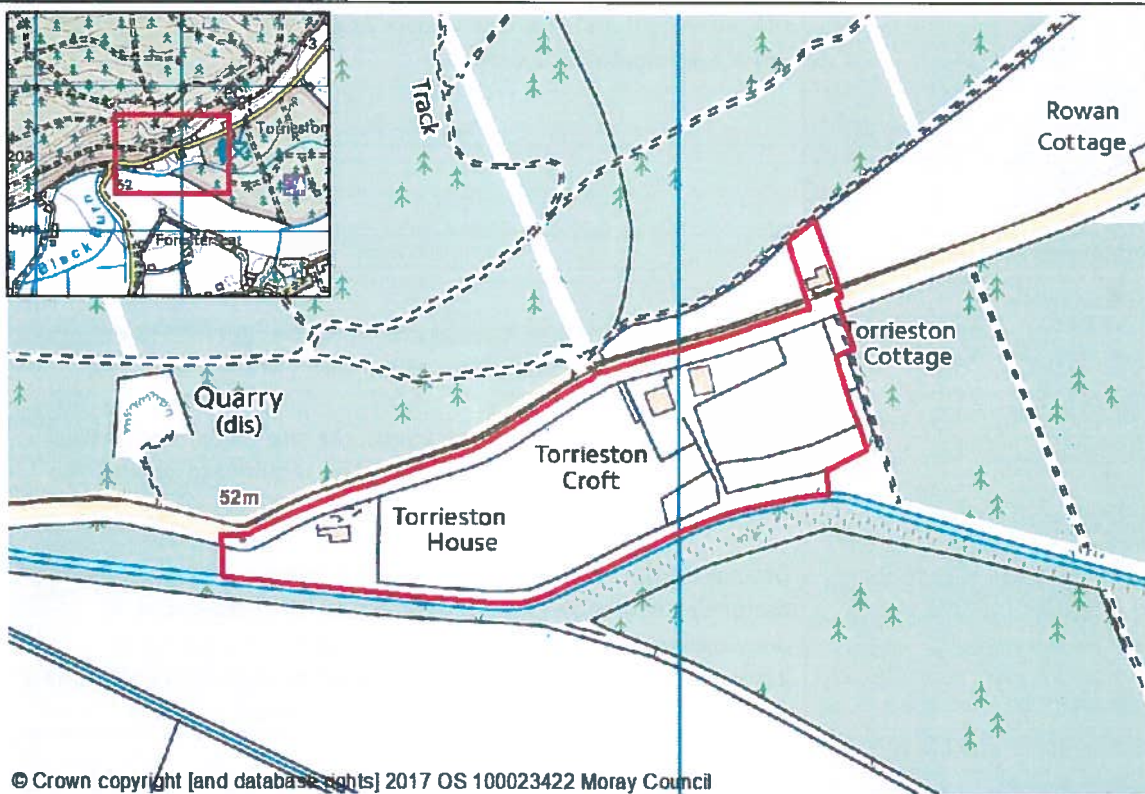
NEW SINGLE STOREY WITHIN GROUNDS OF TORRIESTON HOUSE, TORRIESTON, PLUSCARDEN

**PLANNING PROPOSALS**  
PROPOSED SITE PLAN

Date:	Amendments:	Rev:
Drawn By:	Date:	Checked By:
A. CARSWELL	02.11.2018	

**180005.CROCKART.05PP**

<b>Site Reference</b>	LDP2020_BID_TO01
<b>Settlement</b>	Torrieston
<b>Site Address</b>	Torrieston, Near Elgin
<b>Owner Developer</b>	Officer identified
<b>Site Description</b>	Area of land next to a small cluster of houses
<b>Bid Summary</b>	Residential
<b>Greenfield/ Brownfield</b>	Greenfield
<b>Current Zoning</b>	None
<b>Planning History</b>	None



<b>Strategic Environmental Assessment</b>	
<b>SEA Scoping In/Out</b>	Out
<b>Overall SEA Conclusion</b>	Scope out, despite impact on landscape the bid is not supported.
<b>Effective Sites</b>	
<b>Market Interest / Developer commitment</b>	
<b>Site Constraints:</b>	
<b>Transportation Requirements</b>	<p>Not supported – visibility splays are restricted and require third party land.</p> <p>Development is for three sites each for 2 – 3 dwellings, served by a new access which has been formed onto C3E Elgin-Pluscarden Road.</p>

	<p>New access has been formed to serve single plot with visibility splays of 2.4m x 90m in both directions. However additional plots will require visibility splays at access of 4.5m x 90m and widening of the access to 5.5m to enable two-way movements.</p> <p>To the west there is a wall and hedge within the garden ground of 'Torrison House' which restrict the visibility splay. The level of the road is also falling at that location which further limits sightlines.</p>
<b>Flooding</b>	<p><u>Flood Team</u></p> <p>The site is at risk from fluvial flood risk at the south from the Black Burn and some small areas of surface water flooding. A Level 1 flood risk statement and drainage impact assessment will be required to ensure adequate SuDS design.</p>
<b>Contaminated Land</b>	
<b>Landscape Requirements</b>	
<b>Advanced Planting</b>	
<b>Site Conditions</b>	<p><u>SEPA</u></p> <p>Flood risk: A Flood Risk Assessment would be required to determine the flood risk of the Black Burn to the south of the site.</p> <p>Protection of the water environment: the site is adjacent to Black Burn, so adequate buffer strips would be required to protect the watercourse from development.</p> <p>Drainage: Foul drainage may limit development. Disposal to land is the preferred option and porosity should be investigated. A developer requirement for a compliant site investigation in accordance with Section 3.9 of the Domestic Technical handbook is submitted in support of any planning submission.</p>
<b>Other Abnormal Costs (e.g. Gas Pipeline)</b>	
<b>Identified Assessment Requirements</b>	Flood Risk Assessment
<b>Summary / Conclusion</b>	The proposal is not support on transportation grounds.
<b>Planning Assessment</b>	
<b>Planning Conclusion</b>	<p>The bid proposes development on a site where there is an existing cluster of houses. The surrounding area has been identified as an area where there is a high demand for housing in the open countryside. As part of reviewing the rural housing policy, opportunities for development in existing groupings and clusters have been looked at to offer potential development opportunities.</p> <p>Transportation have objected to the proposal as the necessary visibility splays cannot be achieved</p>
<b>Recommendation</b>	Not supported