



# design consultants

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Main Street, Urquhart, Elgin, Moray, IV30 8LG

FTAO Lissa Rowan  
Committee Services Officer  
Legal and Democratic Services  
The Moray Council  
High Street  
Elgin  
Moray

02 AUG 2019

Our Ref. CTK/CK/18-75

Date 30 July, 2019

Dear Sirs,

**REVIEW:- PPP TO ERECT NEW DWELLING HOUSE AT PLOT 1 RATHVEN STATION, BUCKIE AB56 4DW.**

Please find enclosed a copy of the review documents for the above project which we trust you find in order. If you have any queries on any of the above or the enclosed, please do not hesitate to contact the writer. We look forward to hearing from you in due course.

Yours faithfully



COLIN T KEIR

enc.



# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County Planning (SCOTLAND) ACT 1997 (As amended) In Respect  
of Decisions on Local Developments  
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)  
Regulations 2013  
The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	18/75
Forename	ALFIE	Forename	COLIN
Surname	MORRISON	Surname	KEIR
Company Name		Company Name	PLANS PLUS
Building No./Name	1	Building No./Name	MAIN STREET
Address Line 1	EDWARDS AVENUE	Address Line 1	OFFICES
Address Line 2	LOSSIEMOUTH	Address Line 2	URQUHART
Town/City	MORAY	Town/City	BY ELGIN
Postcode	IV31 6FE	Postcode	IV30 8LG.
Telephone		Telephone	01343 842635
Mobile	-	Mobile	07766 315501
Fax	-	Fax	-
Email	-	Email	ctcplans@aol.com
3. Application Details			
Planning authority	MORAY COUNCIL.		
Planning authority's application reference number	19/00294/PPP.		
Site address	PLOT 1 RATUEN STATION, BUCKIE AB56 4DW.		
Description of proposed development	P.P.P. TO ERECT NEW DWELLING HOUSE		

Date of application

21/3/19

Date of decision (if any)

16/5/19

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

**4. Nature of Application**

Application for planning permission (including householder application)

Application for planning permission in principle

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

Application for approval of matters specified in conditions

**5. Reasons for seeking review**

Refusal of application by appointed officer

Failure by appointed officer to determine the application within the period allowed for determination of the application

Conditions imposed on consent by appointed officer

**6. Review procedure**

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

**7. Site inspection**

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

Can the site be viewed entirely from public land?

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

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

NO

### 8. Statement

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

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

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

SEE SEPARATE SHEET

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

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

**9. List of Documents and Evidence**

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

COPY OF PLANS,  
DECISION NOTICE.  
COPY OF SCOTTISH OFFICE REPORTERS  
FINDINGS ON ORIGINAL APPLICATION  
AND APPROVED CONSENT.

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

**10. Checklist**

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

Full completion of all parts of this form



Statement of your reasons for requesting a review



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



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

**DECLARATION**

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

Signature:



Name:

COUNKERR

Date:

31/7/19.

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



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Main Street, Urquhart, Elgin, Moray, IV30 8LG

## MORAY COUNCIL REVIEW.

### PLOT 1 RATHVEN STATION, BUCKIE.

#### PLOT 1

#### REVIEW SUPPORTING STATEMENT.

This was a re-application due to the fact that the client inadvertently allowed the consent to lapse. The consent had remained valid for 8 years before being allowed to lapse after 2<sup>nd</sup> April 2017. The reasons given by Moray Council are identical to those used as a reason for refusal back in 2008 when the original applications were made. At that time the Scottish Office Reporter disagreed with the council's decision and granted planning permission in principal.

#### **Reasons for refusal No 1.**

Moray Council state that the Buckie Countryside around towns designation would be impacted by allowing this house. We refer you to Paragraph No 2 and 3 of Phillip G Huthinson's conclusions where he contradicts this point and indeed goes on to identify this specific area as a **brownfield site**. In view of the fact that nothing has changed this specific area remains a brownfield site and is therefore not considered as a CAT area.

#### Reasons for refusal No 2.

Moray Council state that another dwelling house adjacent to the small cluster of housing would lead to a build up of development which would be detrimental to the character of the area. We again refer you to the report by Philip G Huthinson paragraph 4 where he states that the impact of a house on the CAT area would be "**negligible**". There is sufficient natural vegetation surrounding the development to allow the proposed house to blend in unobtrusively.



Moray Council state that the visibility is restricted by adjacent trees and hedges. These can all be trimmed back and maintained. We refer you to Philip G Hutchinson's report and to paragraph 5 where he again contradicts Moray Council and states that the proposed increase in traffic does not justify refusal of the application.

Conclusion.

Moray Council have been consistent by referring to the same reasons for refusal as they relied on back in 2008. However, their reasons for refusal were overturned and the Scottish Office Reporter found in favour of our client. With the same reasons offered for refusal as in 2008, we offer the report prepared in 2009 by Philip G Hutchison as our grounds for allowing this proposal. This reporter is an expert in Planning and determined that consent should be granted under the circumstances.

A copy of this evidence is submitted with this Review.

With the reasons for refusal remaining consistent and our use of the consent document to rebuff the planner's claims, we respectfully ask that you approve this application which has only lapsed due to a misunderstanding of time conditions.

## Appeal Decision Notice

T: 01324 696 400

F: 01324 696 444

E: [dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)



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Decision by Philip G Hutchinson, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/300/318
- Site address: Rathven Station, Rathven, Buckie, AB54 4DW
- Appeal by Mr A Morrison against the decision by the Moray Council
- Planning application 08/01235/FUL dated 2 June 2008, refused by notice dated 12 September 2008
- The development proposed: Erect two dwelling houses and garages
- Application drawings: 05-52A D1, 05-52 D2, D3 and D4
- Date of site visit by Reporter: 11 February 2009

Date of appeal decision: 18 February 2009

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### Decision

I allow the appeal and grant planning permission subject to the 4 conditions listed at the end of this notice on pages 3 and 4.

### Reasoning

1. The key issues are (1) whether the proposal is consistent with the development plan and (2) if not whether other material considerations justify a development plan departure. The most relevant parts of the development plan - as it stands today - are policies 1(e) and 2(e) in the Moray Structure Plan 2007 and H8, E10, T2 and IMP1 in the Moray Local Plan 2008.

*Note: The refusal notice also relies on 5 policies from the Moray Local Plan 2000, but its replacement was adopted in December and all parties have had the opportunity to focus on the provisions of the new local plan before the exchange of written submissions was concluded. This determination focuses on the development plan as it is constituted on the date of this Notice.*

2. The first of the above structure plan policies encourages low-impact well-designed development in the countryside to support local communities and rural businesses. The second one protects the countryside around towns including Buckie from development. Local plan policy H8 guards against proposals for more than two houses at a time but accepts small scale residential development in the countryside subject to various siting and design criteria. Policy E10 presumes against development in this area of designated Countryside Around Towns [CAT] unless it falls into an exceptionally allowable category. Local plan policy T2 presumes against development which would have a substandard means of access, which involves inadequately mitigated traffic impacts and where the access itself would have an unacceptable visual impact. Finally, local plan policy IMP1





(c) Proposals for the inclusion of land between the appeal site and the house known as Shalom within the curtilage of either of the new houses or this existing house, suitably landscaped in a manner consistent with the scheme at 2(b) above;

(d) Samples of all facing and roofing materials including surfacing materials for parking areas, driveways and the above lay-by;

(e) Proposals for the hard-surfacing of each access point for a distance of at least 5m back from the edge of the public carriageway designed to ensure that no water or debris is carried onto the public road. The approved details shall be complete before any construction activity commences and before any building materials or items of equipment are delivered to the site.

(f) A professionally prepared Method Statement setting out a scheme of (i) investigation into potential ground contamination and its potential impacts, (ii) proposals for appropriate remediation in advance of development and (iii) contingency measures for dealing with any unexpected contamination during development. All work at (i) and (ii) as may be approved in writing by the planning authority shall be completed to its satisfaction before any other work commences and before any building materials or items of equipment are delivered to the site.

REASON: These important visual and functional matters demand early and detailed attention and cannot be left any more open ended, and in the case of (c) to also help guard against further incremental development.

3. Before either house is occupied all work at 2(a), (c), (e) and (f) above shall be completed and all parking areas, access ways and turning space shall be available for use.

4. Within 6 months of the first house receiving its completion certificate all landscaping work approved in discharge of condition 2(b) and (c) above shall be complete and any tree or shrub failures (for whatever reason) within the first 5 years shall be promptly replaced on a like-for-like basis unless alternative arrangements are first approved in writing by the planning authority.

REASON (3 & 4): These important matters concerning access and the integration of the development into its setting cannot be left any more open ended.

requires new development to be sensitively sited, designed and serviced having regard to 14 detailed criteria. The other material considerations are (i) whether any feature of the site and its surrounding justifies flexibility (ii) whether approval would set an unacceptable precedent and (iii) whether planning conditions can resolve any difficulties which arise from any of the above matters. These all overlap and can be considered simultaneously.

3. Taken together the above development plan policies presume against new development within this designated CAT near Buckie. However this is a brownfield site. It conforms to the definition of brownfield land which is found in the glossary of *Scottish Planning Policy 3 – Planning for Homes*. None of the above development plan policies appear to provide for the re-use of brownfield land within this area of CAT. This situation strikes me as harsh.

4. A well-defined group of 6 houses occupies most of the remainder of the former station area, one of them quite modern. The combined visual impact on this slight crest in the landscape is nevertheless moderated by roadside vegetation and by naturally regenerating trees within and around the site. The design of the houses escapes criticism and there is sufficient land within the appellant's control for additional landscaping and modest access improvements. In these circumstances I consider that the effect on the character of this designated area of CAT should be negligible at the end of the day. The well-defined 'one-off' nature of this long-established brownfield site adjacent to a well-defined housing group should provide the council with sufficient reassurance in regard to precedent issues.

5. The A98 at this point carries no special speed limit but visibility is good in each direction (from two separate accesses serving the combined group). Roads officials addressed their criticism to a proposal for 4 houses not 2 (i.e. by reference to a different previous proposal) - which reduces the weight I can attach to this criticism. Allowing the appeal affords an opportunity to secure a service lay-by on the site frontage. This can function also as a passing place – a fringe benefit for exiting users of the east access. The angled geometry of the accesses should ensure that each serves a separate function depending on the direction of travel. The official accident record which has been submitted does not as far as I can tell include events at either of the accesses to Rathven Station. Even the separate anecdotal evidence is sketchy. A 33% increase in traffic generation is in prospect (less if allowance is made for agricultural access and the occasional access by a bus on which a neighbour has commented). Even so this increase is likely to be split between two access points. I recognise that the substandard nature of the access arrangements is a particular disadvantage but in the circumstances I find that this does not justify refusal.

6. The planning conditions below aim to make the development as low-impact as possible, and in tune with structure plan policy 1(e). The site-specific situation justifies making an exception to structure plan policy 2(e) and local plan policy E10. With only two houses at stake there is no conflict with local plan policy H8, and condition 2(c) below reduces the scope for later incremental development.

7. The IMP1 criteria are not presented as a prescriptive list. The language means that this policy can be satisfied on overall balance (i.e. as a basket of tests). I consider that most are satisfied given the scale of the development, the scope for integrating it into the surroundings, plus the proximity to services and lack of decisive infrastructural objections. Condition 2(f) below is a sufficient response to the perceived land contamination issue in tune with paragraph 33 in *Planning Advice Note 33 – Development of Contaminated Land*.

The appellant is reconciled to resolving this matter in this way. Any remediation must obviously precede development but I am not convinced that a professional ground contamination assessment is a pre-requisite of planning permission in this case given the potential for abortive 'front end' expenditure and the proximity of 6 houses on former railway property. Condition 2(f) in any case corresponds to that which the council has suggested as part of its 'fall back' position in this appeal - as do the other conditions subject to rewording and some tightening up in regard to timescales. The question of access to neighbours' soakaway systems - which allegedly extend onto the appeal site - is a private matter for the appellant and should not inhibit the development itself except conceivably under the building control regime. The development would sterilise no natural resources. I find it difficult to visualise a satisfactory alternative future for the site, despite undeniable tension with local plan policy T2.

8. Drawing together all the above matters I conclude that the degree of conflict with the above parts of the development plan is not very serious and that material considerations (site-specific factors plus the strict conditions below) justify a development plan departure where conflict arises. Careful account has been taken of all the other matters which have been raised but they do not outweigh those considerations on which this decision is based.

  
PHILIP G HUTCHINSON  
Reporter

#### Conditions:

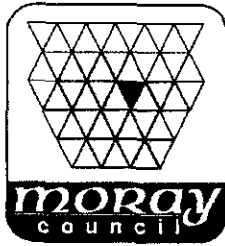
1. The development shall commence within 5 years hereof.

REASON: In accordance with Section 58(1)(a) of the Act.

2. Before any work commences the following details and particulars shall be submitted for the prior written approval of the planning authority:

(a) A revised plan of the site accesses to include a 3m x 10m service lay-by (plus tapers) on the site frontage to be shared between the two houses and to enable service vehicles to park clear of the track and allow others to pass; the plan shall also show any front boundary marker set clear of this lay-by and the track behind a 1m grass verge. The said lay-by shall be available for use before any construction activity commences and before any building materials or items of equipment are delivered to the site;

(b) A professionally prepared landscaping scheme indicating all trees and shrubs to be retained, measures for their protection during development, and additional tree planting (concentrating on the perimeter which shall in any case also feature native hedges) specifying species, numbers and heights at planting time together with aftercare measures for the first 5 years after completion of this scheme;



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

**REFUSAL OF PLANNING PERMISSION**

**[Buckie]  
Planning Permission in Principle**

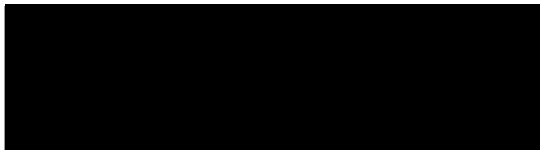
TO Mr Alfie Morrison  
c/o Plans Plus  
Main Street  
URQUHART  
By Elgin  
Moray  
IV30 8LG

With reference to your application for planning permission in principle 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 dwellinghouse on Plot 1 Site To Rear Of The Old Station House Buckie  
Moray**

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

Date of Notice: **16 May 2019**



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

### **DETAILS OF MATTERS SPECIFIED IN CONDITIONS**

Approval, consent or agreement has been GRANTED for the following matter(s):-

N/A

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

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

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.

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

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

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

The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies E10, H7, T2 and IMP1) and, as a material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' because:

- 1) As an application for a new dwelling at this location, the proposal would have an adverse impact on the Buckie Countryside Around Town designation and its objectives, and would not help to preserve the special character of the countryside at this location or preserve the distinction with the built up environment.
- 2) The siting of an additional dwelling at this location adjacent to an existing small rural cluster would lead to a build-up of development which would be detrimental to the character and setting of this small grouping and the character and appearance of surrounding countryside by increasing the number of rural dwellings present at this location.
- 3) The proposed development, if permitted, would involve the intensification of use of two existing vehicular accesses onto the A98 Fochabers - Cullen road which suffer from sub-standard road alignment and where visibility is restricted adjacent trees/ hedges/ obstructions and would likely give rise to conditions detrimental to the road safety of road users contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.

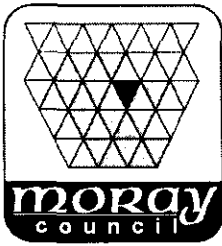
**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
18-75 D1		Site and location plan

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

N/A



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

**REFUSAL OF PLANNING PERMISSION**

**[Buckie]  
Planning Permission in Principle**

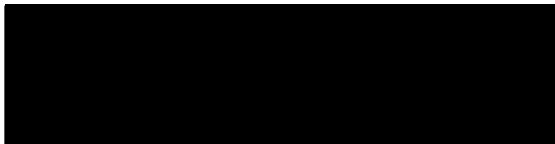
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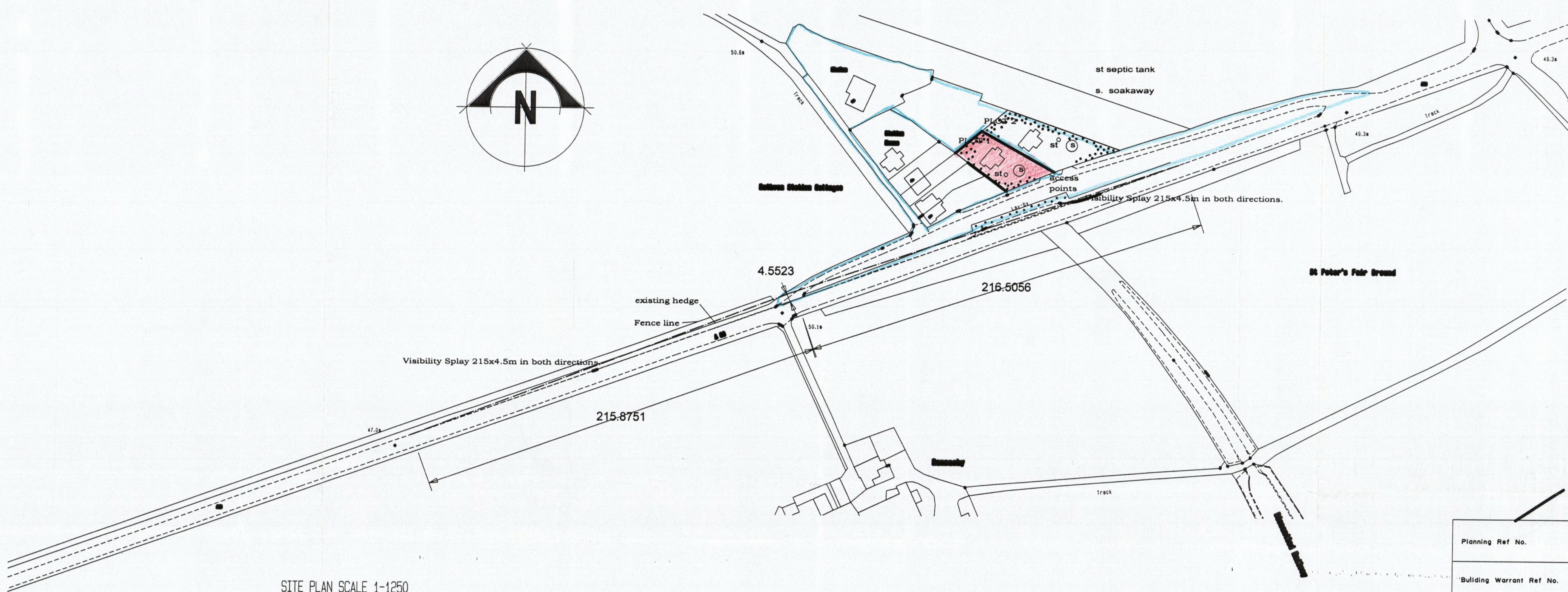
Approval, consent or agreement has been GRANTED for the following matter(s):-

N/A

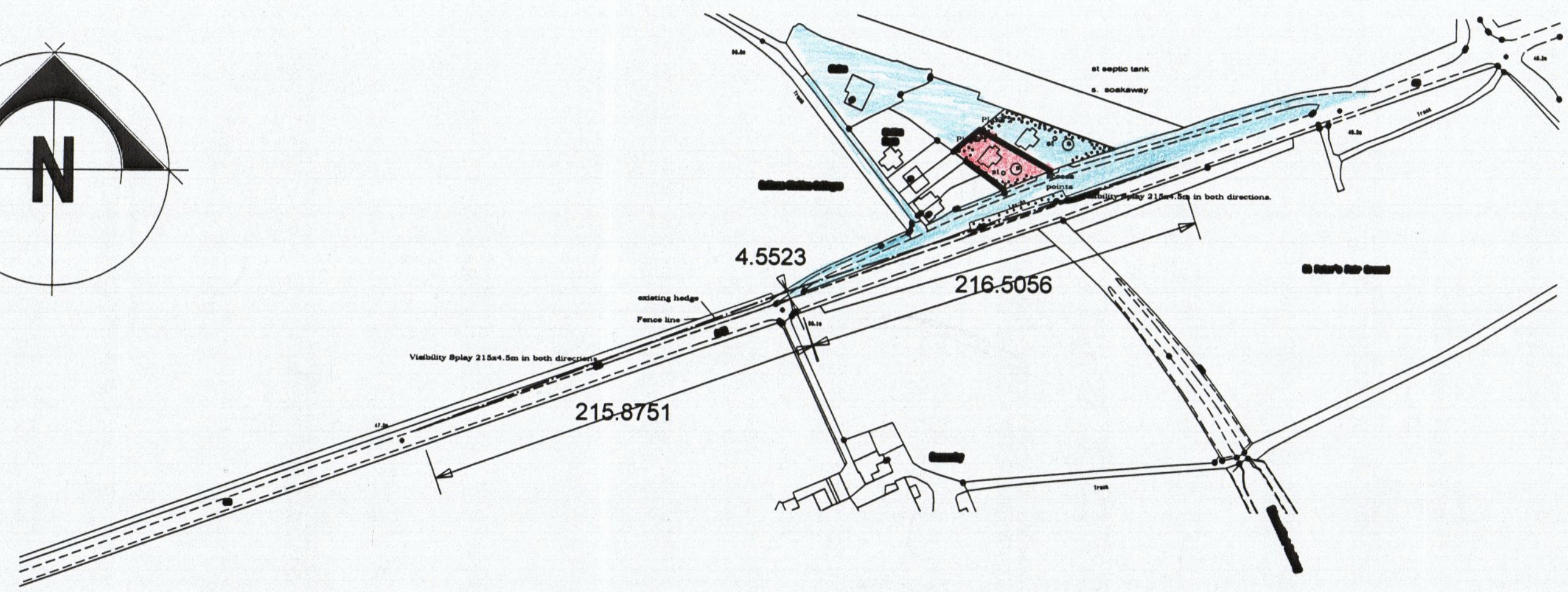
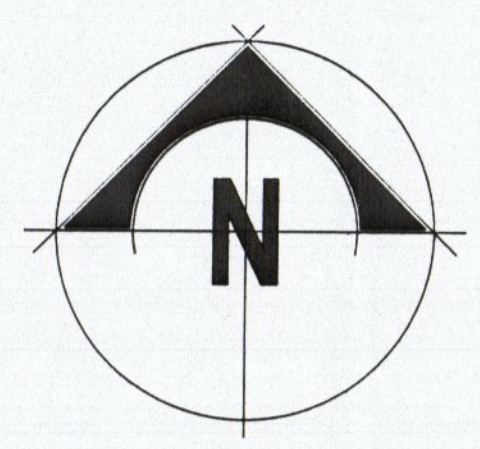
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SITE PLAN SCALE 1-1250



LOCATION PLAN SCALE 1-2500

Town & Country Planning  
(Scotland) Act, 1997  
as amended

**REFUSED**  
16/5/19  
Development Management  
Environmental Services  
Moray Council

Mapping contents (c) Crown copyright and database rights 2018 Ordnance Survey 100026217

Planning Ref No.		
Building Warrant Ref No.		
Structural Engineer Ref No.		
Revisions and Distributions.		
Date	Revision.	Amended by.

Crown copyright all rights reserved License No. 100041145.

No works to commence on site until all relevant Local Authority consents have been obtained. No responsibility taken for work commenced before all Local Authority consents have been issued.

Contractors will have deemed to have visited the site to familiarise themselves with all aspects of the project prior to submitting any quotation for the building operations.

Any deviation to the approved plans to be reported to this office. Contractors to check all dimensions on site prior to commencement of any building operations.

Given dimensions only to be used. DO NOT SCALE DRAWINGS.

Any roof truss or timbers tying into an existing roof to be checked on site by the contractor to ensure heights and ridges meet correctly.

**PLANS PLUS (URQUHART)**  
**ARCHITECTURAL**  
**DESIGN CONSULTANTS**  
Main Street Offices, Urquhart, By Elgin IV30 8LG.  
Tel No 01343 842635 / 07766 315501 ctkplans@aol.com

Project	PROPOSED 2 HOUSES AT PLOTS AT RATHVEN STATION, BUCKIE, MORAY.	Project No.	18-75-D-1
Client	MR A MORRISON	Drawn By	Colin T Keir
		Scale	1-1250 and 1-2500