

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

REFUSAL OF PLANNING PERMISSION

[Heldon And Laich] Application for Planning Permission

TO Mr John Marshall c/o Machin Dunn + MacFarlane 11 Bank Street Alloa FK10 1HP

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:-

Convert existing garage to living accommodation and erect detached garage at The Forecourt Cummingston Elgin Moray

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

Date of Notice:

30 September 2024



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

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

IMPORTANT YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposals are contrary to the Moray Local Development Plan (2020) and National Planning Framework 4 for the following reasons:

- The proposed double garage would encroach onto land which is currently beyond the MLDP 2020 designated settlement boundary of Cummingston. The introduction of a garage on this area of land would give rise to conditions of ribbon development and a blurring of distinction between the built-up area of the settlement and the surrounding open countryside which policy EP6 and the Cummingston Settlement Statement seek to avoid. This would fail to comply with NPF4 Policy 16 and MLDP2020 Policies DP1 and EP6.
- 2. The application would also fail to comply with NPF4 Policy 4 and MLDP 2020 EP3 as it would erode the special qualities of the designated Burghead to Lossiemouth Special Landscape area by creating a built form which encroaches onto land not currently within the Cummingston settlement boundary.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

Reference Version	Title
100	Proposed drainage layout and details
2273B/P/1.04 A	Garage - elevations floor and site plan
2273B/P/1.03 A	Dwellinghouse - elevations and floor plan
2273B/P/1.01	Location plan

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

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 <u>www.eplanning.scotland.gov.uk</u>

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

Ref No:	24/00905/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Convert existing garage to living accommodation and erect detached garage at The Forecourt Cummingston Elgin Moray		
Date:	26.09.2024	Typist Initials:	LMC

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

CONSULTATIONS				
Consultee Date Returned		Summary of Response		
Moray Flood Risk Management	27/06/24	No Objections		
Contaminated Land	26/06/24	No Objections subject to informatives		
Transportation Manager	02/07/24	No Objections		

DEVELOPMENT PLAN POLICY			
Policies Dep Any Comments (or refer to Observations below		Any Comments (or refer to Observations below)	
NPF1 - Tackling the Climate	N	Complies	
NPF2 - Climate mitigation and adaptation	Ν	Complies	
NPF3 - Biodiversity	Ν	Complies	
NPF4 - Natural Places		See below	
NPF13 - Sustainable transport	N	Complies	
NPF14 - Design, quality and place		See below	
NPF15 - Local living	N	Complies	
NPF16 - Quality homes		See below	
NPF22 - Flood risk	N	Complies	
NPF23 - Health and safety	N	Complies	
PP1 Placemaking	N	Complies	
PP2 Sustainable Economic Growth	Ν	Complies	
PP3 Infrastructure and Services	N	Complies	
DP1 Development Principles		See below	

EP2 Biodiversity	Ν	Complies	
EP3 Special Landscape Areas		See below	
EP6 Settlement Boundaries		See below	
EP12 Management and Enhancement Water	Ν	Complies	
EP13 Foul Drainage	Ν	Complies	
EP14 Pollution Contamination Hazards	Ν	Complies	

NO

REPRESENTATIONS

Representations Received

Total number of representations received

Names/Addresses of parties submitting representations

Summary and Assessment of main issues raised by representations

Issue:

Comments (PO):

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted National Planning Framework 4 (NPF4) and Moral Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

Proposal

The application seeks planning permission to convert an existing attached single garage to a utility room, shower room and store. A detached double garage is proposed to the west of the site.

The proposed garage would measure 7.1m x 6.2m x 5.4 (to the roof ridge) and would be finished in a cream dry dash render, grey composite cladding and a grey concrete roof tile over the pitched roof. These finishes would match that of the main parent dwelling.

Site

The site is located at the Forecourt, Cummingston and is the westernmost house in the MLDP 2020 designated Cummingston Settlement on the north side of the road.

The settlement boundary of Cummingston as identified in the Moray LDP follows the original site boundary of the house however a 5m strip of land to the west of the site was the subject of a recent planning application (23/02133/APP refers) where a retrospective change of use was permitted to include the land as part of the domestic garden ground associated with the existing dwelling. The proposed garage would encroach onto the 5m strip of land which was the subject of the recent change of use. The 5m strip of land on the western boundary remains beyond the MLDP 2020 designated Cummingston settlement boundary.

The site is also within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

Site History

The main dwellinghouse was granted planning permission in 2016 under 16/00881/APP.

A further application was approved in 2017 to change the use of an area of agricultural land to the north of the site to garden ground (17/00830/APP refers).

An application was submitted in 2022 to change the use of a strip of agricultural land (the same as identified in this proposal) to garden ground and to erect a garage/storage shed on that land and that application was subsequently refused (22/01594/APP refers). The decision was appealed to the Moray Local Review Body but the appeal dismissed. It is noted that whilst the 2022 application was under review, it was discovered that some of the proposed works had already been carried out.

As outlined, retrospective planning permission was granted to change the use of a 5m strip of farmland to domestic garden ground on the western edge of the site in 2024 (23/02133/APP refers). Conditions were applied to that consent. Condition 1 required landscaping in the form of native hedging to be planted along the western edge of the site (between the 1.8m timber fence and the post and wire field boundary) in the first planting season following the date of the decision. Condition 2 removed permitted development rights under Classes 1A, 1B, 1C & 3A, 3AA, 3B, 3D, 3E of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification). This condition effectively prevents any ancillary outbuildings on the 5m strip of garden ground being erected as 'Permitted Development'.

Policy Assessment

Siting and Design (NPF4 Policy 16, MLDP 2020 Policy DP1, EP6, Cummingston Settlement Text)

NPF4 Policy 16(g) states that householder development proposals will be supported where they do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials and do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

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. DP1 also states that development proposals will be supported if they conform the relevant Local Development Plan Policies, proposals and additional guidance and meet the criteria set out in DP1.

MLDP 2020 Policy EP6 refers to settlement boundaries and outlines that settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan Period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable unless part of a LONG designation.

The Cummingston settlement text also states that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that liner extension along the B9040 is not supported.

As outlined, retrospective planning permission was granted in early in 2024 to change the use of a 5m strip of farmland to domestic garden ground (23/02133/APP refers) on the western edge of the site. This decision was considered an acceptable departure from MLDP 2020 Policies DP1 and EP6 on the basis of the scale of the area of agricultural land to be changed to domestic garden ground, the removal of relevant householder permitted development rights and the proposed landscaping to mitigate the impact of the high-level fence. The MLDP 2020 designated Settlement Boundary however remains unchanged and the 5m strip of land is currently still beyond the Cummingston settlement.

The current application seeks to convert an existing attached garage to a utility room, shower room and store and erect a new, detached, single garage to the west of the site. The double garage would encroach onto the new area of garden ground (previously farmland) by approx. 2.5m. The previous application (23/02133/APP refers) was supported as an acceptable departure on the basis that no built development was proposed on the new strip of garden ground. It is noted a previous application in 2022 (22/01594/APP refers) to change the use of the ground were refused and that these included proposals to erect a garage/storage shed. It is also noted that a condition was added to the most recent planning consent removing permitted development rights for Classes 1A, 1B, 1C & 3A, 3AA, 3B, 3D, 3E of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification). It is therefore considered that the proposals, if allowed, would give rise to conditions of ribbon development or a blurring of the distinction between the built-up area and the surrounding countryside house which policies DP1 and EP6 policies seek to safeguard against and therefore the application will be refused as it would fail to comply with NPF4 Policy 16 and MLDP 2020 policies DP1 and EP6.

In terms of design, the proposed detached double garage is of a scale and design inkeeping with the main existing property and the proposed materials of a cream dry dash render, grey composite cladding and a grey concrete roof tile over the pitched roof would be considered to integrate the building into the existing site successfully. Neither the proposed double garage, nor the alterations proposed to the existing garage would be considered to give rise to any adverse amenity impact to any neighbouring property (including loss of light or loss of privacy). Should an any application be approved, a condition should be applied to any final consent requiring the detached garage to remain ancillary to the main dwellinghouse.

It is also noted that the conversion of the existing garage to a utility room, shower room and store is considered acceptable however this does not override the aforementioned objection with regard to the proposed double garage development which would create a built-form on an area of ground which is not within the Cummingston Settlement Boundary. If allowed this would give rise to conditions of ribbon development or a blurring of the distinction between the settlement and the open countryside and as such the application will be refused as it fails to comply with EP6, DP1 and NPF4 Policy 16.

Special Landscape Areas (NPF4 Policy 4, EP3)

The site lies within the Burghead to Lossiemouth Special Landscape Area, as identified within the MLDP 2020. NPF4 Policy 4 requires that development proposals that affect locally identified landscape area in the LDP will only be supported where the development will not have significant adverse effects on the integrity of the area or the qualities it has been identified for. Policy EP3 requires that development proposals within SLAs so not prejudice the special qualities of the designated area and adopt the highest standards of design in accordance with policy DP1. Policy EP3 also requires that in urban areas (such as settlements), proposals should reflect the traditional settlement character in terms of siting and design.

As outlined, the proposed double garage would encroach onto land which although has been permitted for use as domestic garden ground, is not within the MLDP 2020 designated boundary of Cummingston. Whilst the design of the garage is acceptable and would accord with the existing dwelling, the principal of a built form, encroaching onto ground which is not part of the settlement is not acceptable and would blur the lines between the built-up settlement and open countryside which in turn would erode the special qualities of the designated Burghead to Lossiemouth Special Landscape Area and as such the application will be refused as it would fail to comply with NPF4 policy 4 and MLDP 2020 Policy EP3.

Climate Change, Biodiversity and Soils (NPF4 Policies 1, 2, 3 and 5)

The proposal is a householder development only which will result in minimal impact in terms of

climate change and soil disturbance. It is not necessary to seek formal biodiversity enhancement on a householder proposal of this scale and therefore the proposal is deemed to comply with NPF4 Policies 1, 2, 3 and 5.

Parking and Access (NPF4 Policy 13, DP1)

There is no alteration to the existing access or parking within the site. Moray Council Transportation Section have been consulted and have raised no objections. As such the proposals would be deemed to comply with the Transportation requirements of DP1 and NPF4 Policy 13.

Contamination (NPF4 Policy 23, EP14)

The Council's Contaminated Land Section have been consulted and have raised no objections however an informative has been recommended informing the applicant that the site forms part of a forming filling station with underground fuel tanks and that whilst a site investigation assessment has been undertaken, safe development is the responsibility of the developer. If the application were to be approved, this would be added as an informative on any final consent.

Conclusion

The proposals are unacceptable as the proposed double garage would encroach onto land which is currently beyond the MLDP 2020 designated settlement boundary of Cummingston. As such, the introduction of a garage on this area of land would give rise to conditions of ribbon development and a blurring of distinction between the built-up area of the settlement and the surrounding open countryside which policy EP6 and the Cummingston Settlement Statement seek to avoid.

In turn the application would also fail to comply with NPF4 Policy 4 and MLDP 2020 EP3 as it would erode the special qualities of the designated Burghead to Lossiemouth Special Landscape area by creating a built form which encroaches onto land not currently within the Cummingston settlement boundary.

As such the application will be refused as it fails to comply with NPF4 Policies 4, 16 and MLDP 2020 Policies DP1, EP3 and EP6.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY	HISTORY						
Reference No.	Description	Description					
23/02133/APP	Retrospective consent to change of use of land from agricultural to garden ground relocation of dwelling access and erection of wall to southern boundary timber fence and landscaping to western boundary at The Forecourt Cummingston Elgin Moray IV30 5XY						
	Decision	Decision Permitted Date Of Decision 27/03/24					
	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray IV30 5XY						
22/01594/APP	Decision	Refuse	Date Of Decision	19/01/23			
	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray						
17/00830/APP	Decision	Permitted	Date Of Decision	31/07/17			
Demolish building and erect 2 storey dwellinghouse with integral garage and							

associated works at Old Filling Station Cummingston Elgin Moray IV30 5				
16/00881/APP	Decision	Permitted	Date Of Decision	20/07/16

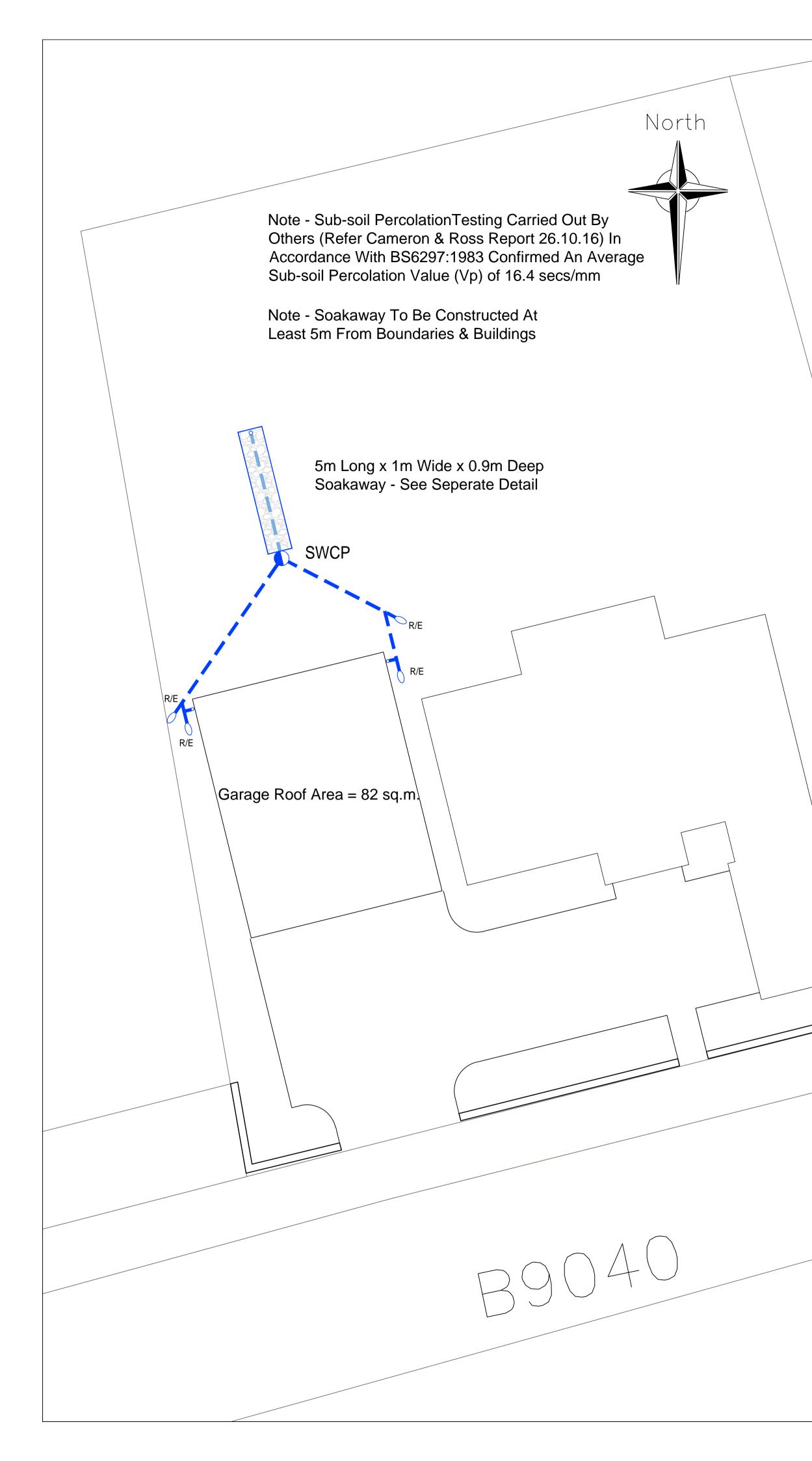
ADVERT		
Advert Fee paid?	N/A	
Local Newspaper	Reason for Advert	Date of expiry

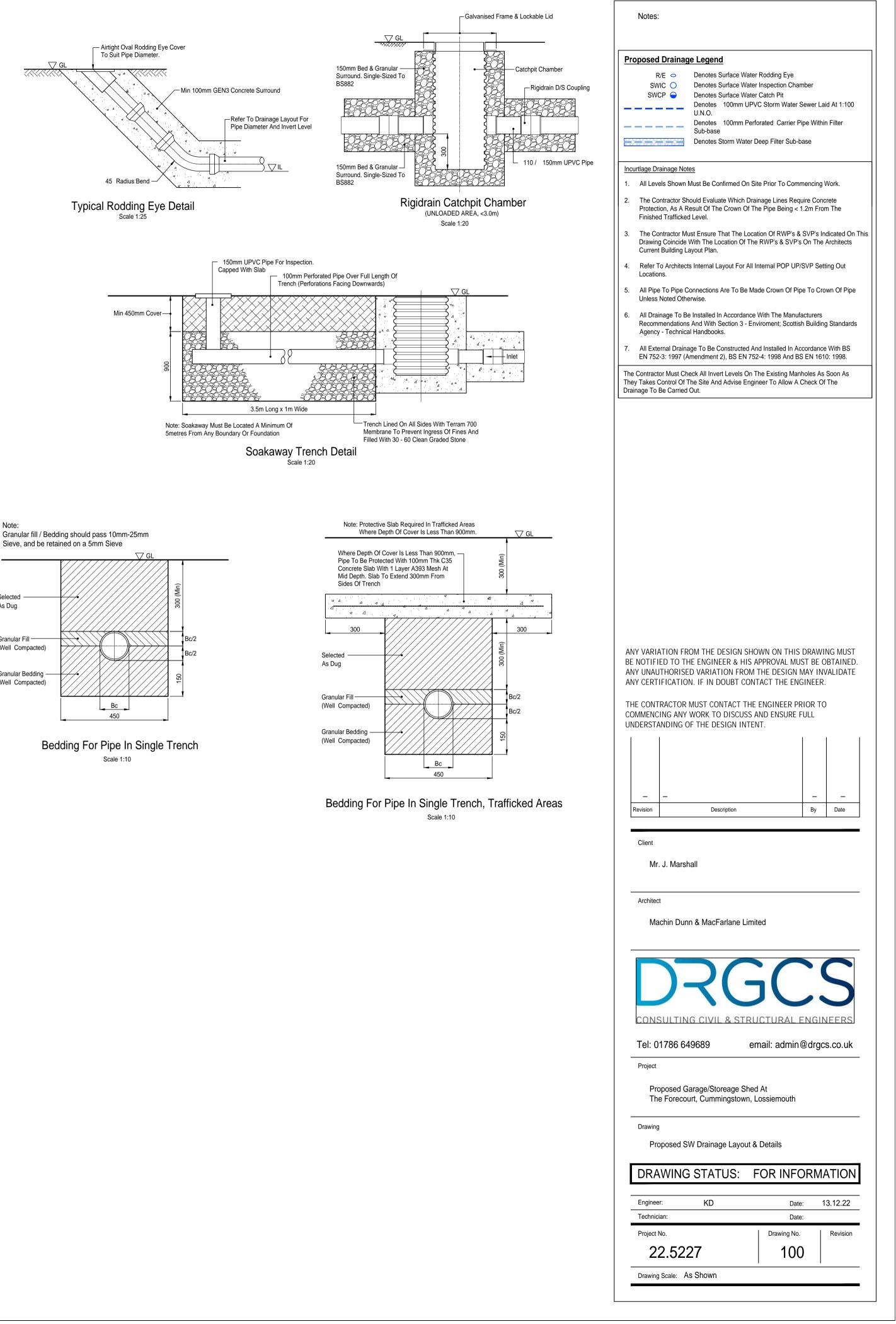
DEVELOPER CONTRIBUTIONS (PGU)		
Status	N/A	

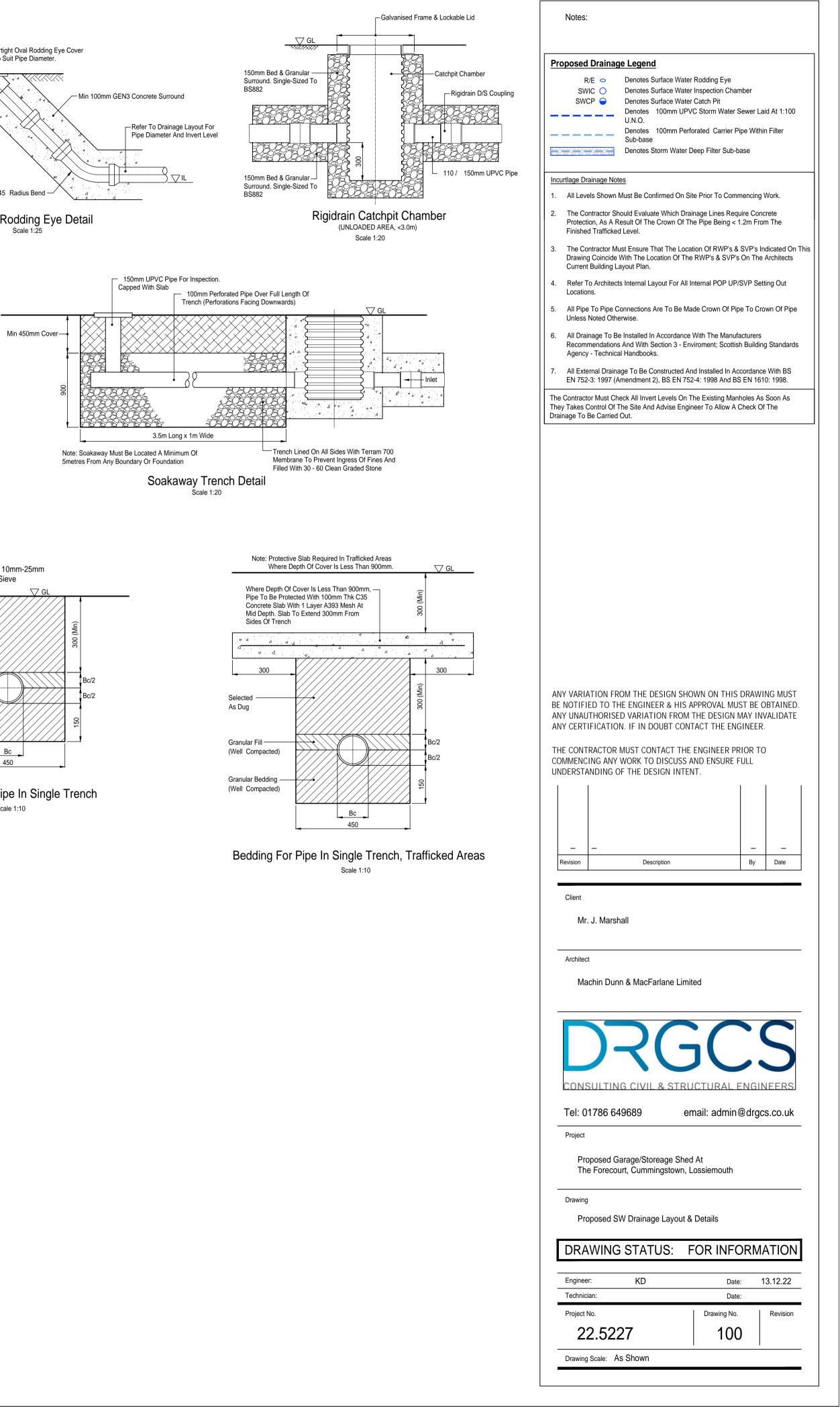
DOCUMENTS, ASSESSMENTS etc. * * Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc				
Supporting information submitted with application? YES				
Summary of main issues raised in each statement/assessment/report				
Document Name: Soakaway Sizing Calculations (ref: 5227, received 18/06/2024)				
Main Issues:	Provides calculations for new surface water soakaway within	the site.		

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:	

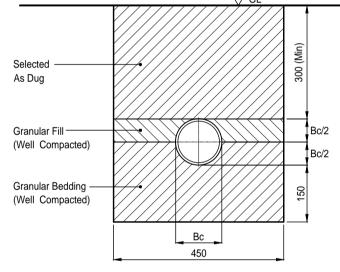
Section 30	Relating to EIA	NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission	NO
Section 32	Requiring planning authority to consider the imposition of planning conditions	NO

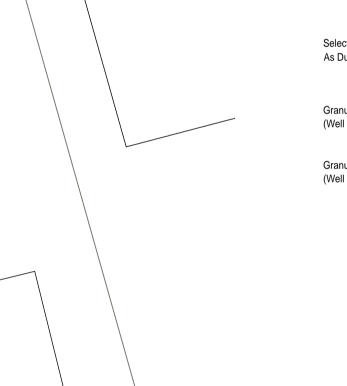






Granular fill / Bedding should pass 10mm-25mm

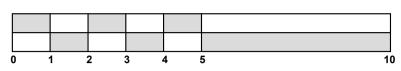




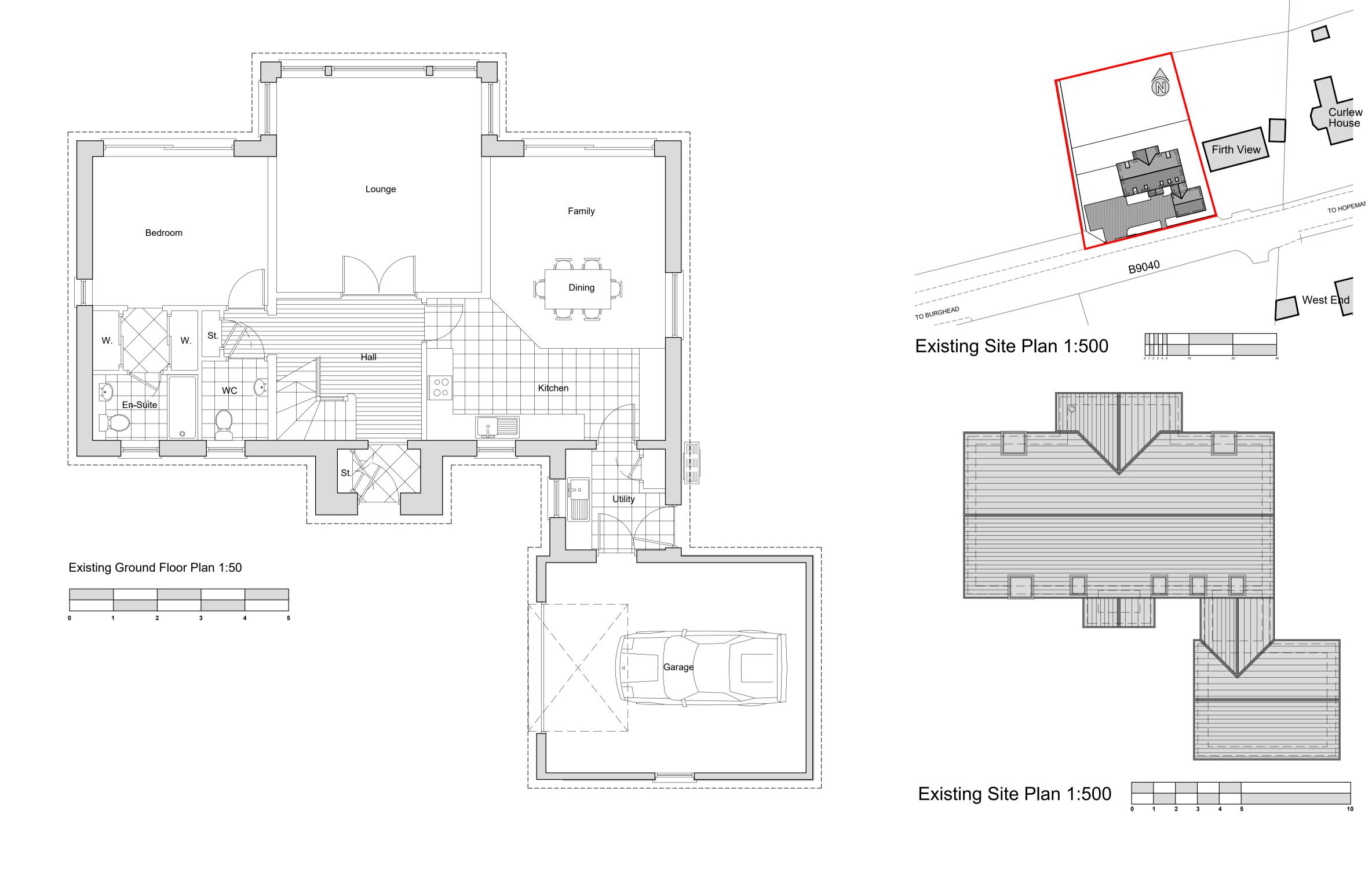




Existing Side Elevation 1:100



Existing Front Elevation 1:100





Existing Side Elevation 1:100



Existing Rear Elevation 1:100

Notes

- The copyright of this drawings and it's content is reserved by machin dunn + macfarlane and is protected by the Copyrights Acts (Section 47, 1988). This material can be used for consultation purposes only and it is issued with the caveat that it is not copied or disclosed to any third party, either wholly or in part, without the written permission of machin dunn + macfarlane.
- 2. All dimensions to be checked on site prior to ordering materials
- Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

PLANNING APPLICATION

machin dunn + macfarlane

T : +44 (0)1259 212962 E : enquiries@mdm-architecture.co.uk W : www.mdm-architecture.co.uk

11 Bank Street + Alloa + Clackmannanshire + FK10 1HP

PROJECT

STATUS

Prop. Erection of Double Garage & Internal Alterations at 'The Forecourt', Cummingston

DRAWING TITLE

Existing Ground Floor Plan, Elevations and Roof Plan

CLIENT

Mr J. Marshall

SCALE As Noted @ A1

DATE 16th April 2024

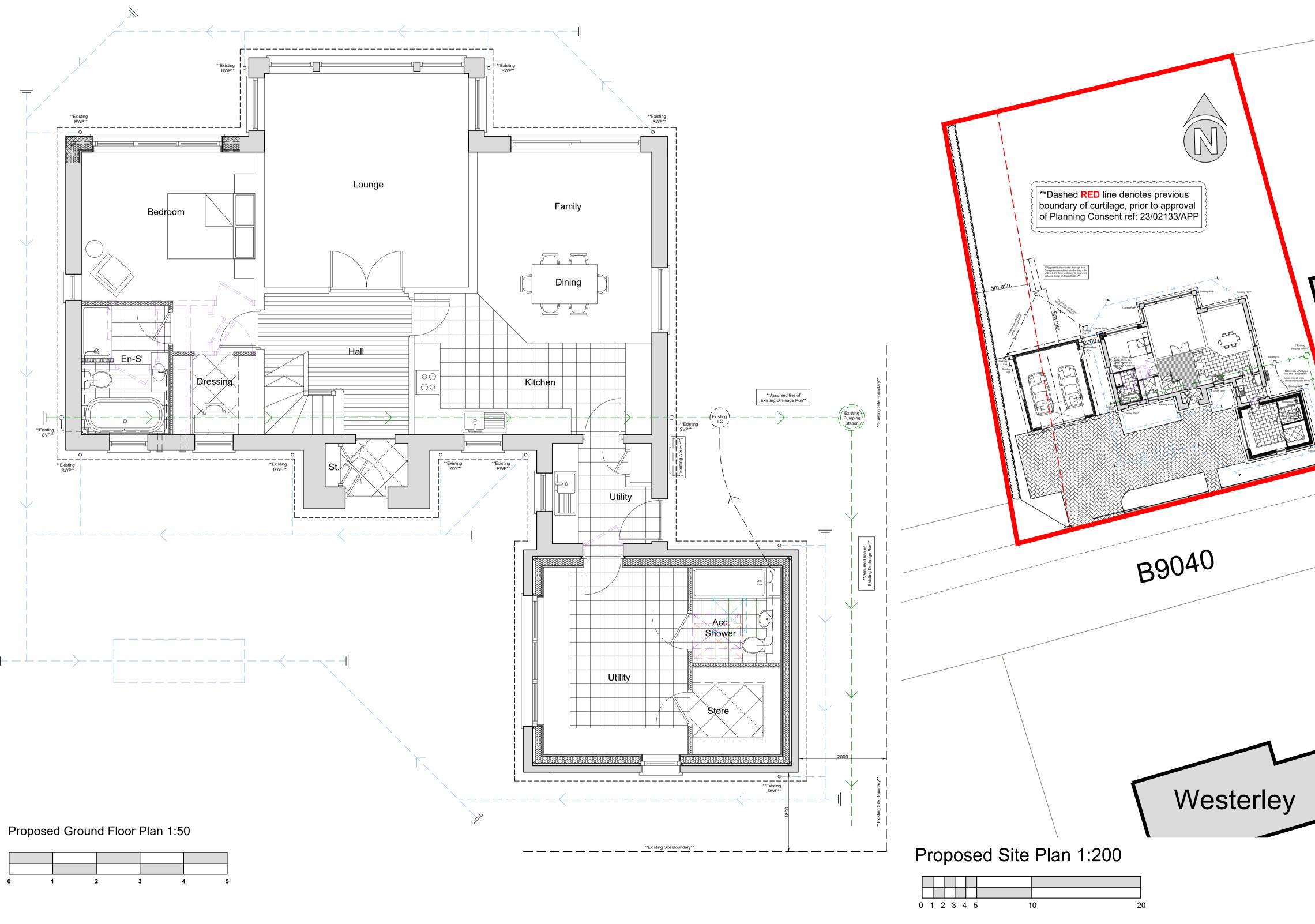
DRG NO. 2273B/P/1.02



Proposed Side Elevation 1:100







C) 1	1 2	2 ;	3 4	4 5

Proposed Side Elevation 1:100



Proposed Rear Elevation 1:100

Notes

- 1. The copyright of this drawings and it's content is reserved by machin dunn + macfarlane and is protected by the Copyrights Acts (Section 47, 1988). This material can be used for consultation purposes only and it is issued with the caveat that it is not copied or disclosed to any third party, either wholly or in part, without the written permission of machin dunn + macfarlane.
- 2. All dimensions to be checked on site prior to ordering materials
- 3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

	Revisions	Date
	Revision A - Additional information added to address comments from Planning Officer	07/08/2024
Firth '		
** All proposed drainage to connect into existing drainage not serving existing assumed <u>SEPERATE</u> **********************************		

Drainage from proposed shower room to connect into existing I.C via slow radius bend via advarradius bend Durgo be bevalen inyhynodi and harve access al base for cleaning and testing Al drainage to be connected into Durgo via separate Connections **Al-admittance valves to be fully installed in accordance with manufactures' Benature. As ANA is board-in, enclosure to be ventilated by means of a gine providing 200mm2 free air space to provide a continuous flow of air*

PLANNING APPLICATION

machin dunn + macfarlane

T : +44 (0)1259 212962 E : enquiries@mdm-architecture.co.uk W : www.mdm-architecture.co.uk

11 Bank Street + Alloa + Clackmannanshire + FK10 1HP

PROJECT

STATUS

Prop. Erection of Double Garage & Internal Alterations at 'The Forecourt', Cummingston

DRAWING TITLE

Proposed Dwelling Floor Plan and Elevations

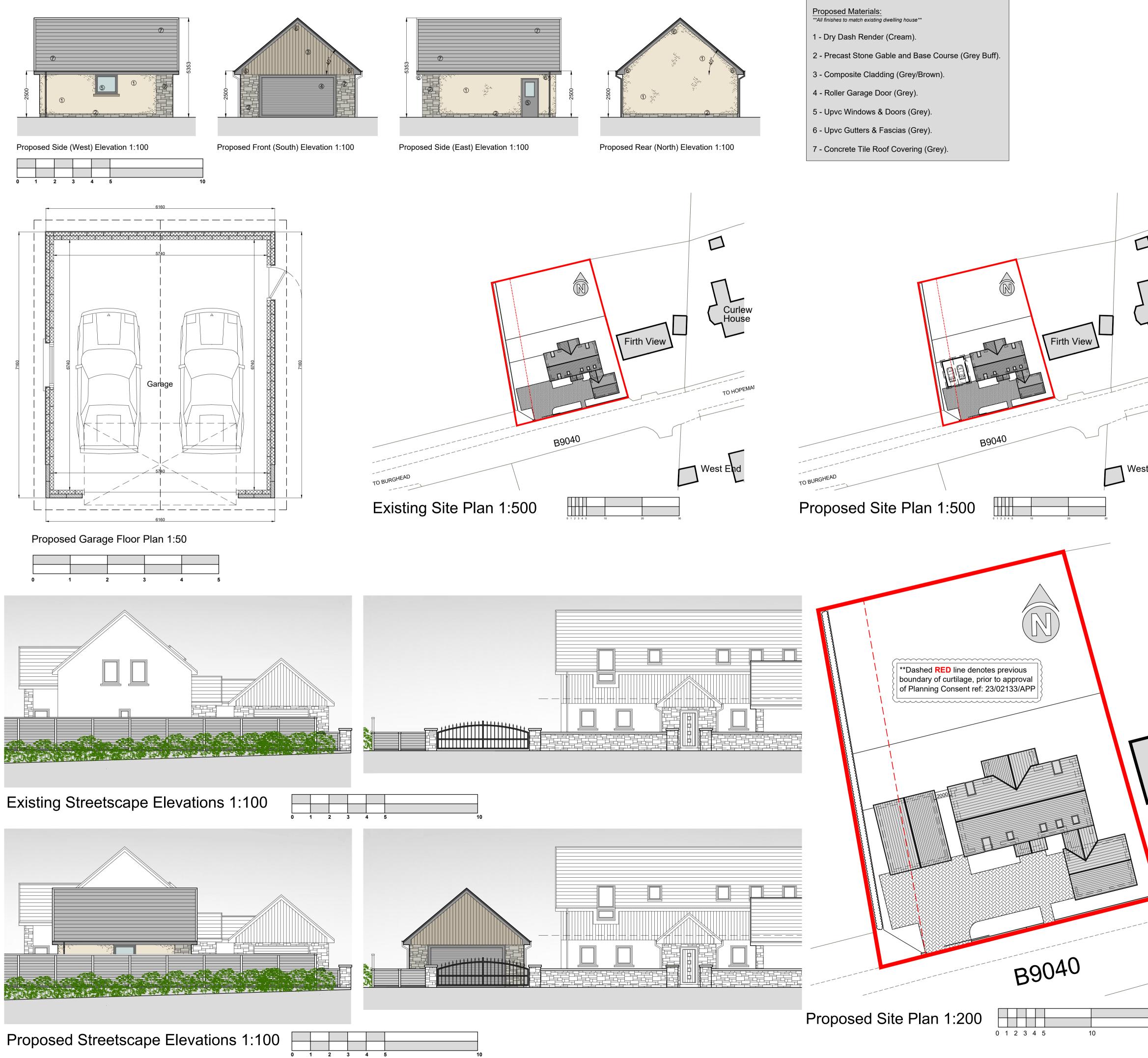
CLIENT

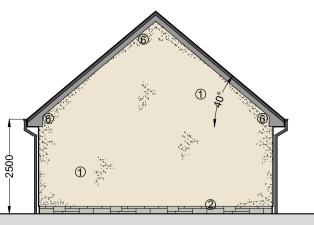
Mr J. Marshall

SCALE As Noted @ A1

DATE 16th April 2024

DRG NO. 2273B/P/1.03 A





Notes

- 1. The copyright of this drawings and it's content is reserved by machin dunn + macfarlane and is protected by the Copyrights Acts (Section 47, 1988). This material can be used for consultation purposes only and it is issued with the caveat that it is not copied or disclosed to any third party, either wholly or in part, without the written permission of machin dunn + macfarlane.
- 2. All dimensions to be checked on site prior to ordering materials
- 3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

	Revisions	Date
	Revision A - Additional information added to address comments from Planning Officer	07/08/2024
Curlew House		
TO HOPEMAI		
Vest End		
	STATUS PLANNING APPLICATION	
	machin dunn + macfar	lane e and design
Firth	T : +44 (0)1259 212962 E : enquiries@mdm-architecture.co.uk W : www.mdm-architecture.co.uk	
	11 Bank Street + Alloa + Clackmannanshire + FK101	HP
	PROJECT Prop. Erection of Double Garage & Internal Alte at 'The Forecourt', Cummingston	rations
	DRAWING TITLE	
	Proposed Garage Floor Plan, Elev's, Roof and Si	te Plans
	CLIENT	
	Mr J. Marshall	
20	SCALEAs Noted @ A1DATE 16th AprilDRG NO.2273B/P/1.04 A	2024

Soakaway Design 2



Project Details

Project Title: The Forecourt, Cumming	stown		
Project Number: 5227	Designer: KD		
Global Variables			
Impermeable Area :- 117 m ²	Soil Infiltration	Soil Infiltration Rate :- 2.03E-5 m/sec	
Storm Duration :- 60 minutes	Rainfall :- 0.0	Rainfall :- 0.016 metres	
Void Ratio (Trench Soakaway) :- 0.3 Volumetric Runoff Coeff :- 1.00		noff Coeff :- 1.00	
Trench Soakaway			
Length = 5 metres	Width = 0.94 metres	Depth = 0.9 metres	
Half empty time = 4.28 hours			

Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- https://scottishepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417