

THE HIGHLAND COUNCIL

CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 9 MARCH 2010

Agenda Item	
Report No	

09/00409/FULSU : CLC (Highland) Ltd
Land west of Torvaig, Lamington

Report by Area Planning and Building Standards Manager

SUMMARY

Description : The application is in detail for the erection of a single house and detached garage with private foul drainage and new private access.

Recommendation - GRANT

Ward : 8 Tain & Easter Ross

Development category : Local Development

Pre-determination hearing : None required

Reason referred to Committee : A number of proposals in the Lamington area were reported to Committee on 11 August 2009. The previous application for this site - 08/00218/FULSU (for two houses) - was noted by Committee and they opined that a detailed application for a single house on the site would be more appropriate. The Committee asked that such an application should be reported back for further consideration.

1. PROPOSED DEVELOPMENT

1.1 The application is in detail for a single house and detached garage with private foul drainage by means of a treatment plant and land soakaway. The proposed house lies to the eastern side of the site approximately 20m to the west of Torvaig and measures 18.1m x 9m x 7.4m. The 'front' of the house faces south towards the Cromarty Firth, with this elevation having a slightly raised deck area. External materials are a slate roof with white or off-white wet harl walls.

There is a mix of existing house types in the immediate area, with both older smaller cottages and traditional houses, such as 'Torvaig', and modern houses such as 'Kanerva'. Many of the older properties also have substantial modern extensions thus making it more difficult to clearly define an existing built character.

The lower (southern) part of the application site lies outside the defined settlement boundary detailed by the Ross and Cromarty East Local Plan. The boundary runs from the south-western corner of the site to the point where it joins the south-western corner of the neighbouring house curtilage of 'Torvaig'.

- 1.2 There is no existing infrastructure on the site.
- 1.3 A letter dated 21 September 2009 from the agent notes that the proposal is a detailed application for a single house replacing the previous detailed application (08/00218/FULSU) for two houses. The design and materials of the proposed house, together with the access and foul drainage arrangements are the same as the previous application.
- 1.4 No variations have been made to the application since it was lodged.

2. SITE DESCRIPTION

- 2.1 The site is located to the south side of the Scotsburn Road and immediately to the west of 'Torvaig'. The site falls from the Scotsburn Road and therefore some of the height of the house would be lost due to the change in levels from the public road. There is some hedging along the roadside which currently helps to screen the field from the road.

3. PLANNING HISTORY

- 3.1 Members will recollect consideration of applications in this area during the June and August 2009 Committees. At the August Committee, Members gave a strong indication to the applicant that two houses within the current planning application site boundary would not be appropriate, but that a single house may be. As a result, the applicant withdrew the previous application (08/00218/FULSU) and submitted the current proposal. Members requested that an application for a single house on the site be brought to Committee for consideration.
- 3.2 Members will recollect that this was reported in December when Committee indicated that they were minded to approve the application but on the basis of the prior conclusion of a legal agreement under section 75 of the Act to restrict further housing development on the planning application site. Following discussions with the agent, Members should note that the applicant is reluctant to enter into a s75 as he considers that it would be an onerous legal burden which could present an impediment to the sale of the land. The applicant suggests that the actual site boundary ought not to be regarded as an issue and not so sufficient as to warrant a s75 – he considers that Members have sufficient control over development outwith the defined settlement boundaries. He points out that the Committee have full control over any subsequent development proposal, should one ever come forward in the future; and also that the part of the site which lies outwith the Scotsburn Settlement Boundary could be highlighted on an approved layout and conditioned so as not to be built upon. This might offer a reasonable and effective means of control, in terms of procedural compromise.
- 3.3 I consider that this may offer a potential way forward and would suggest that Members give this active consideration.

4. PUBLIC PARTICIPATION

4.1 Advertised : Potential Departure and Neighbour Notification

Representation deadline : 16.10.2009

Timeous representations : 2, 4households

4.2 Material considerations raised are summarised as follows:

- Overdevelopment
- Access
- Loss of croft land to housing
- Development of a cluster of houses out of character with the existing settlement; ribbon development
- Contrary to Local Plan policy
- Servicing problems

4.3 All letters of representation can be viewed at the Area Planning Office.

5. CONSULTATIONS

5.1 Area Roads and Community Works Manager: No objections. A sight line of 135m to the west and 150m to the east is required. A combined bellmouth and service bay, surfaced in bituminous macadam is required. Under the New Roads & Street Works Act (1991) s109, a Road Opening Permit is required to be obtained by the developer from the Roads Authority for the installation of the access across the verge.

5.2 Kilmuir and Logie Easter Community Council: No response.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Structure Plan 2001

Policy G2 Design for Sustainability

6.2 Ross and Cromarty East Local Plan

- Housing in Small Rural Settlements

Developments may be acceptable within the defined boundaries of the small rural settlements, such as Scotsburn (No.29). Suitably designed proposals will be supported if they:

- are consistent with Structure Plan policies
- are consistent with the established settlement/development pattern
- can be drained to the satisfaction of the drainage authority and where other servicing does not involve undue public expenditure or infrastructure out of keeping with the rural character.

Furthermore, a strong presumption against development will also be maintained on land immediately outwith the defined settlement boundaries.

Scotsburn – has seen substantial housing development over the last decade and there are now significant servicing problems especially in relation to waste disposal.

The majority of development has been contained to the southern side of the road where the best views are to be found. Potential for further infill development is subject to satisfactory drainage arrangements and where feasible the use of shared access points.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable.

7.2 Highland Council Supplementary Planning Policy Guidance

Not applicable.

7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy.

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

Members will note that the site falls partly outwith the defined settlement boundary of Scotsburn as identified by the Ross and Cromarty East Local Plan. Accordingly, it has been advertised as a potential departure from policy. The area around the settlement envelope has the restrictive Highland Structure Plan Policy H3 Housing in the Countryside in operation.

8.4 The lower (southern) part of this site lies to the south and therefore outside the defined settlement boundary. The boundary runs from the south-western corner of the site to the point where it joins the south-western corner of the neighbouring house curtilage of 'Torvaig'.

8.5 The application is for a modern house which is generally considered to be acceptable in design terms. The house type is single storey with a slate roof and a white/off-white wet harl wall finish with detached garage. The access from the public road is opposite 'Guithsach'.

8.6 The development plan policy is generally favourable towards housing within the settlement boundary – which the site mainly falls within. Against this, the lower part of the site lies outwith the allocated settlement boundary and therefore strictly speaking is contrary to policy. Furthermore, the existing landscape and topography must also be considered, as the site lies below and to the south of the road. The resultant changes in level may help to reduce the impact of the house when viewed from the road, although this has to be balanced with the visual interference which could be caused in the outlook towards the Cromarty Firth.

8.7 **Material Considerations**

Representations have been summarised at section 4.2 and relate to:

- Overdevelopment – It is not considered that the development of a single house would result in an overdevelopment of the site.
- Access and Servicing – TEC Services have indicated that the proposed access arrangements are acceptable.
- Loss of croft land to housing – The site is allocated for residential use by the Local Plan, so the principle of losing some croft ground is already established through this.
- Development of a cluster of houses out of character with the existing settlement; ribbon development – I do not consider that the development of a single house would result in a significant change in the character of the area. Nevertheless, Members may wish to consider whether this proposal combined with the other recent applications and approvals in the area would result in a significantly detrimental impact and cumulative change in the character of the area.
- Contrary to Local Plan policy – The application site does not fall completely within the allocated development area. Nevertheless, the majority of the application site does lie within the Scotsburn settlement boundary and therefore it is considered that the proposal generally accords with policy.

9. **CONCLUSION**

9.1 In conclusion, I would advise Members that the proposal accords with development plan policy and whilst the lower, southern part of the site does lie outside the allocated area for development, the majority of the site lies within the allocated area. Accordingly, the proposal is not a departure from policy and is considered to be acceptable.

As set out in section 3 above, the use of a planning condition to restrict the development of the lower part of the site which lies outwith the Scotsburn Settlement Boundary (and could be highlighted on an approved layout) – see condition 10 below – should be considered by Members.

10. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant.

(1.) The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

(2.) No development shall start on site until the completed Notice of Initiation of Development (NID) form attached to this decision notice has been submitted to and acknowledged by the Planning Authority. From the date of acknowledgement, the Site Notice attached to it shall be posted in a publicly accessible part of the site until the development is completed.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

(3.) Upon completion of the development the completed Notice of Completion form attached to this decision notice shall be submitted to the Planning Authority.

Reason: In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

(4.) Except as otherwise provided by the terms of this permission, the developer shall construct and operate the development in accordance with the plans and supporting information submitted with the application and docketed as relative hereto with no deviation therefrom unless otherwise approved in writing by the Planning Authority.

Reason: In order to clarify the terms of the permission hereby granted and to ensure that the development is implemented as approved.

(5.) The roof of the house shall be finished in natural slate.

Reason: In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

(6.) The external walls of the house shall be finished in a white or off-white wet harl or as may otherwise be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interests of amenity and for the avoidance of doubt.

(7.) All drainage arrangements shall be provided to the satisfaction of the Planning Authority in consultation with the Building Standards Authority and Scottish Water. For the avoidance of doubt, foul drainage shall be by means of a sewage treatment plant and land soakaway, or as may otherwise be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interests of amenity and for the avoidance of doubt.

(8.) All access arrangements shall be provided to the satisfaction of the Planning Authority in consultation with the Roads Authority prior to the first occupation of the house in accordance with the attached Schedule. For the avoidance of doubt, the access to the public road shall incorporate a combined bellmouth and service bay finished in bituminous macadam. The combined bellmouth and service bay shall be located to the western side of the plot and shall provide minimum visibility splay of 135m to the west and 150m to the east.

Reason: In the interests of road safety and for the avoidance of doubt.

(9) Prior to the commencement of development, the developer shall submit full written and plan details of the proposed garage.

Reason: As no details have been provided and for the avoidance of doubt.

(10) The area of land identified in blue on approved plan 1 docketed hereto shall remain free of any ancillary buildings or housing, unless agreed with the express approval of the Planning Authority.

Reason: In order to control the development of the site and for the avoidance of doubt.

FOOTNOTE TO APPLICANT RELATIVE TO APPLICATION 09/00409/FULSU

Flood Risk: It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (of emanating from) the application site. As per Scottish Planning Policy 7: Planning & Flooding, planning permission does not remove the liability position of developers or owners in relation to flood risk.

Road Openings Permit / Road Construction Consent: You will require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.

Scottish Water: You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

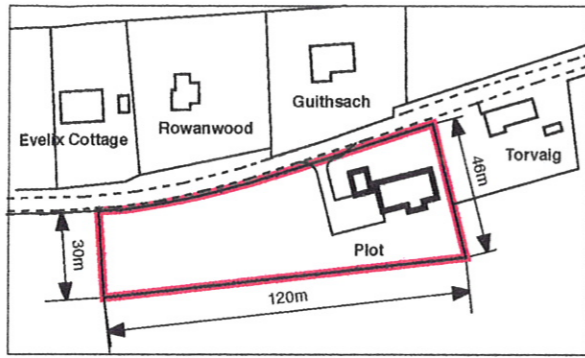
Signature: Allan J Todd
Designation: Area Planning & Building Standards Manager Caithness, Sutherland and Easter Ross
Author: Bob Robertson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Site Plan
Plan 3 – Floor Plan
Plan 4 – Elevation/Sections Plan



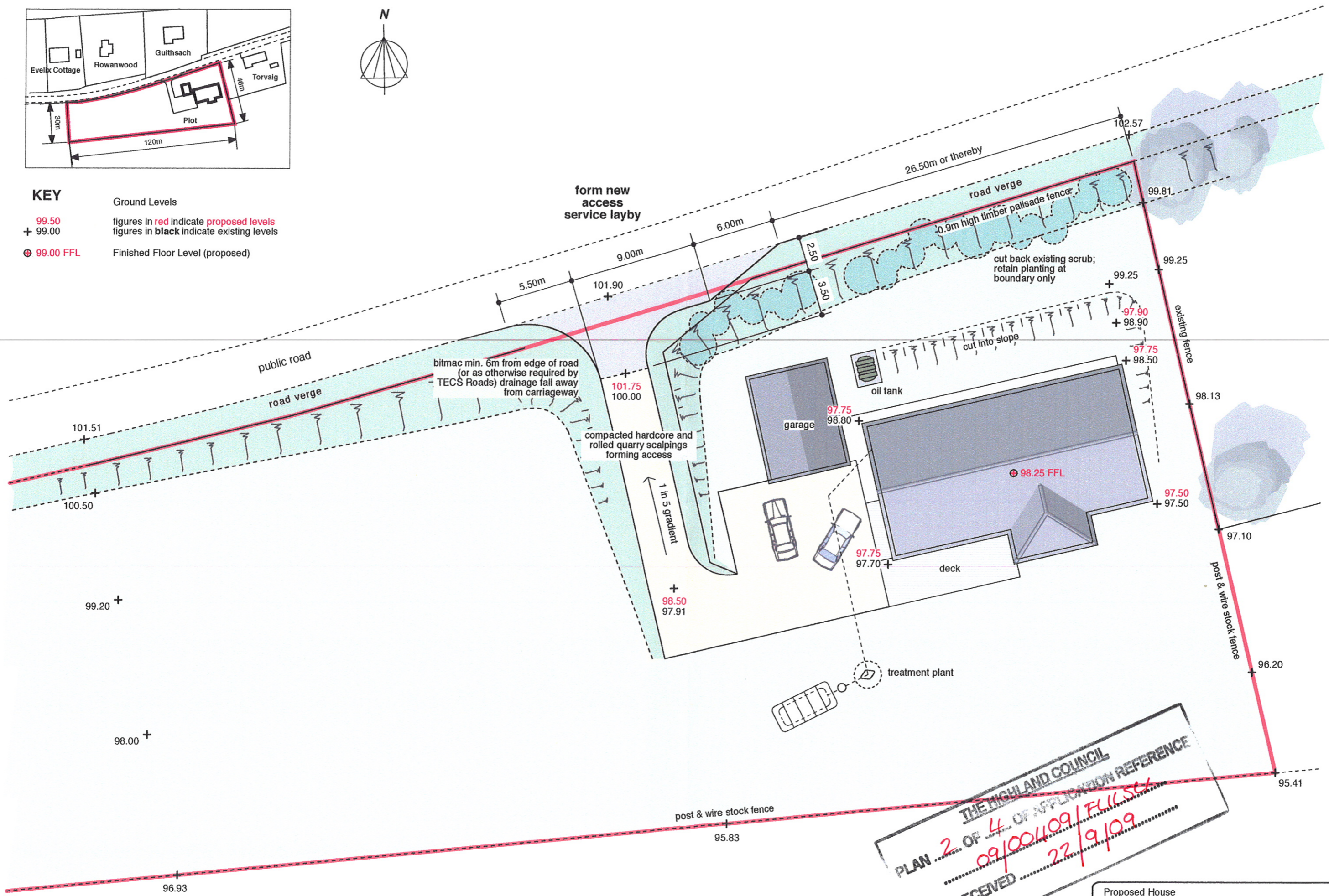
09/00409/FULSU
 Erection of house and detached garage. Installation of sewage treatment system.
 Formation of new shared access onto Scotsburn / Tain public road.
 (Amended application to 08/00218/FULSU) at
 Land West of Torvaig, Lamington.

CLC (Highland) Ltd
 per Ian Livesley Architect
 Coneas
 Balconie
 Evanton

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- KEY**
- Ground Levels
 - figures in **red** indicate **proposed levels**
 - figures in **black** indicate **existing levels**
 - ⊕ 99.00 FFL Finished Floor Level (proposed)



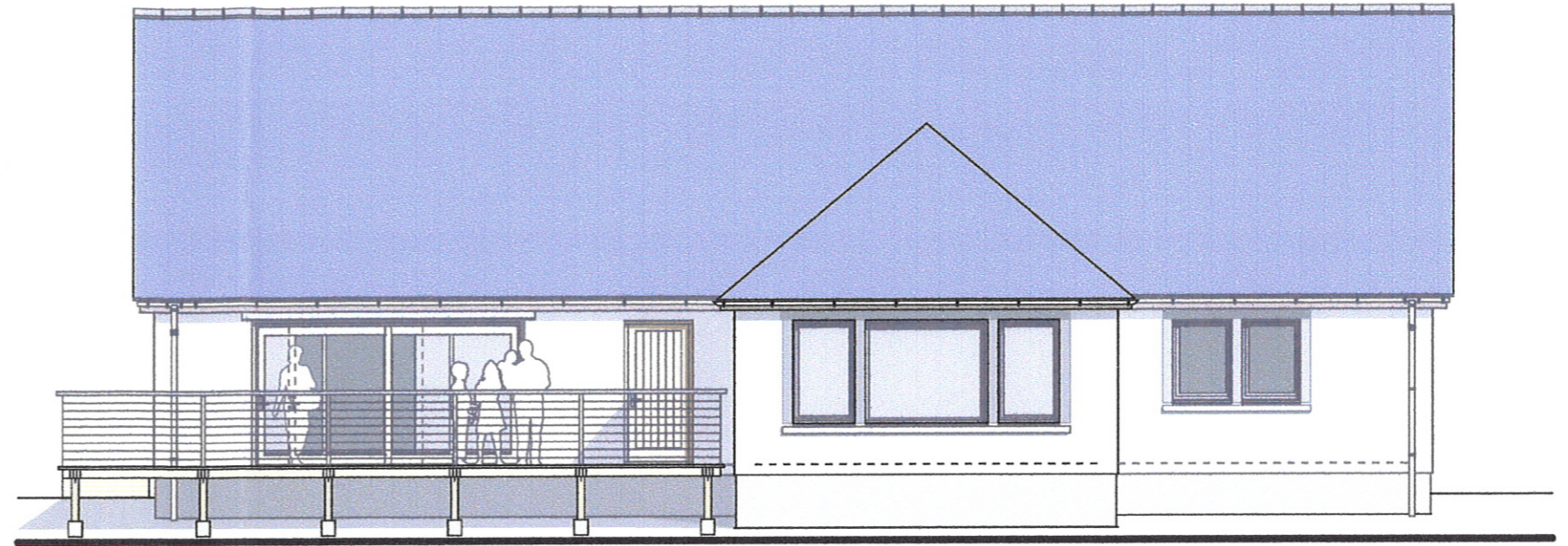
THE HIGHLAND COUNCIL
 PLAN 2 OF 4 OF APPLICATION REFERENCE
 09/004109/FL/1/5/4
 RECEIVED 22/9/09

SCALE IN METRES 0 5 10

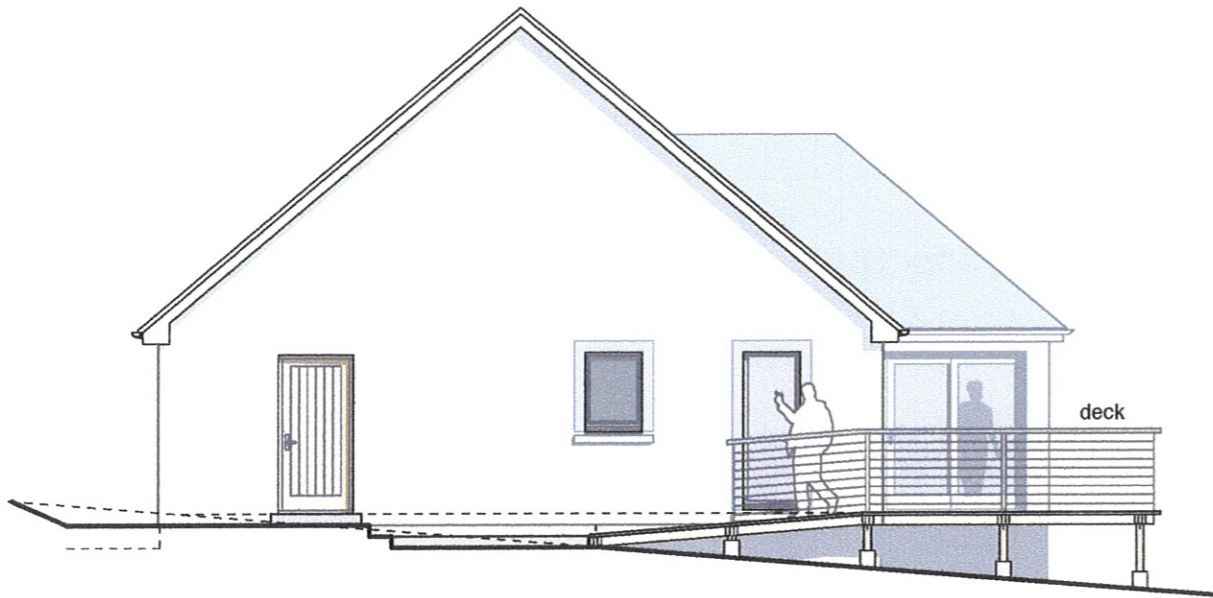
Proposed House
 on land west of Torvaig, Lamington, Kildary
Site Plan
 dwg 0811/PL02 scale 1:250 01.09.09

Iain Livesley Architect 01349 830023
 mail@livesley.co.uk

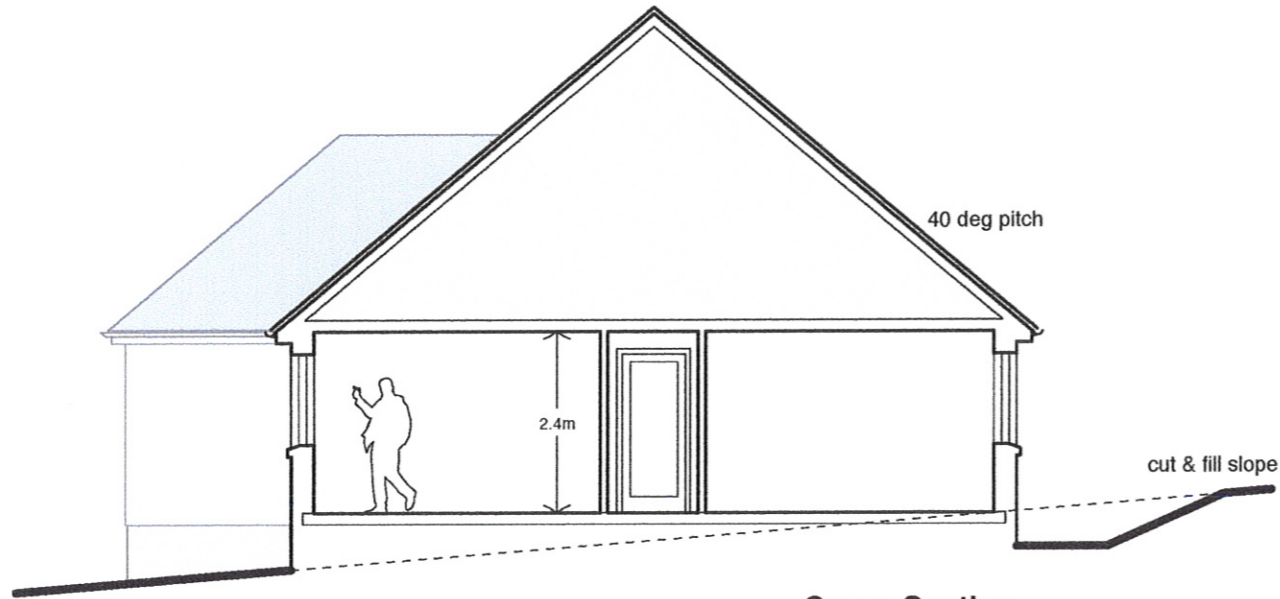
South Elevation



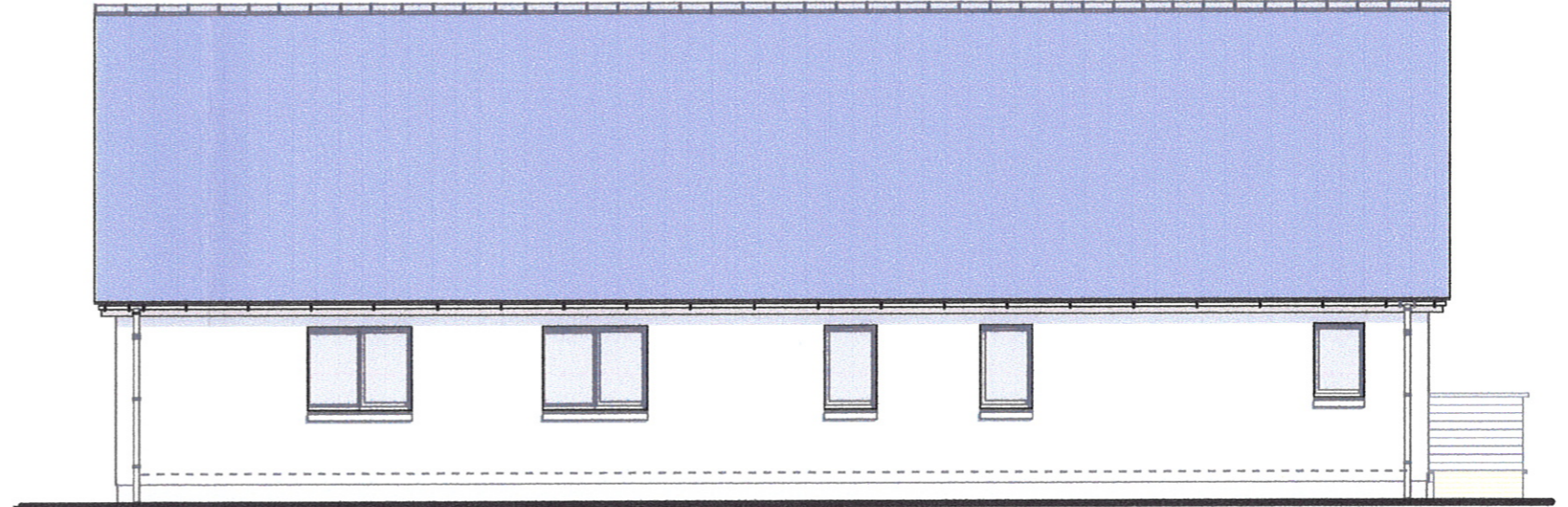
West Elevation



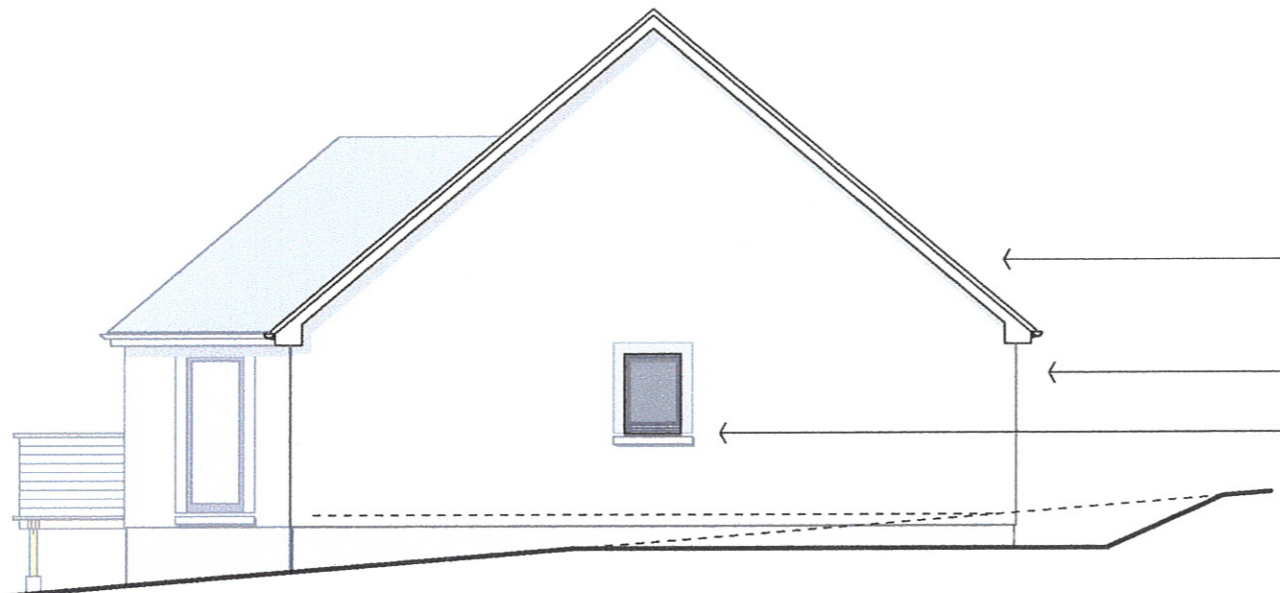
Cross Section



North Elevation



East Elevation



- ← natural slate roof finish
- ← wet-dash roughcast (white or off-white)
- ← timber doors & windows

SCALE IN METRES

scale 1:100



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 PLAN 2 OF 4 OF APPLICATION REFERENCE
 09/00409/PL/654
 RECEIVED 22/9/09

Proposed House
 on land west of Torvaig, Lamington, Kildary
Section & Elevations
 dwg 0811/PL04 scale 1:100 01.09.09

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