

THE HIGHLAND COUNCIL

CAITHNESS SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 28 September 2010

Agenda Item	
Report No	

**10/02996/PIP : Mr Jamie MacGregor
Land to the north of Balintore Hotel, East Street, Balintore**

Report by Area Planning and Building Standards Manager

SUMMARY

Description : Construction of housing (4 detached units)

Recommendation - Grant

Ward : 8 – Tain and Easter Ross

Development category : Local

Pre-determination hearing : Not required

Reason referred to Committee : Community Council objection & 5 or more third party objections that cannot be resolved by condition.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks planning permission in principle for the construction of residential housing (4 detached units).

2. SITE DESCRIPTION

- 2.1 The site is located to the rear of the Balintore Hotel, East Street, Balintore. There is a walled beer garden located adjacent to the hotel, where the proposed access is to be taken. At present there is a single storey chalet type building and sheds located to the rear of the beer garden and hotel building. The land between the site and cemetery to the north is covered by a dense blanket of gorse, ferns and some native tree species.

3. PLANNING HISTORY

- 3.1 10/00054/PIPSU – Formation of site for the erection of housing at land to the north of Balintore Hotel. This application was withdrawn due to concerns over impact upon the amenity of the neighbouring properties. This application sought permission for a larger site area and a higher number of dwellings (10 units were proposed – 3 detached, 3 terraced and 4 semi-detached).

4. PUBLIC PARTICIPATION

4.1 Advertised : Neighbour Notification (expired 06.08.10)

Representation deadline : 06.08.10

Timeous representations : 15

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Development would result in loss of privacy.
- Impact of the development upon the stability of the ground. In particular, the development may result in the erosion, undermining and movement of the steep bank up to the cemetery wall.
- Existing drainage network cannot cope with the development.
- The visibility onto East Street is very limited. Many vehicles do not respect the 30mph speed limit and this road is used by children on their way to and from school.
- The site currently provides a habitat for birds and wildlife and contains a number of trees.
- The proposal involves very small plot areas with not a great deal of garden space. This demonstrates a lack of quality siting and is contrary to local character and Highland Council Structure Plan Policy G2.
- Developing outside of the existing hotel building line is inappropriate and out of keeping with the character of the village. It is inappropriate to site dwellings within such close proximity to the hotel.
- The hotel is a long established business and any development should be to the enhancement of its business potential and amenities of the village in general.
- Plan submitted with application is inadequate.
- The site has not been identified in the Local Plan for future housing development. There are other sites with planning permission that have not been developed, therefore it may be concluded that there is no need for another housing development.
- When previous sites adjacent to the cemetery were given planning permission, they were advised by the Planning Department that nothing could be built within 25 metres of the cemetery wall.
- Disruption during construction.
- Light pollution caused by street lighting.
- Boundary inaccurately shown on title document.

4.3 The applicant has provided the following response to the above representations:

1. Loss of Privacy /impact on Value

We would wish to minimise any loss of privacy and will seek a sympathetic resolution, making best use of fencing, hedging and landscaping options. Buildings would only have bedrooms above ground floor level which would help with the overlooking and privacy question. The impact on value is difficult to assess, if any. This point is a double-edged sword as the residents seeking to prevent **any** planning consent for this area zoned for housing seek to impinge upon our development plans. As the statutory authority we have accepted your guidance, in that, curtailment of housing numbers and focussing within an area more central to the available site addressed these concerns, hopefully to your satisfaction.

2. Loss of Facilities – Grounds (Beer Garden)

When we purchased the Balintore Hotel it was closed to the public. At our expense we refurbished the property, the letting accommodation, installed a commercial kitchen and obtained a liquor licence under the new Licensing Scotland Act. At significant cost these actions have seen a positive addition of facilities to the village. During our period of operation we have seen little if any use of the Beer Garden which seems to be the point of contention. Based upon this experience we split the Beer Garden from the Hotel and this now sits on a separate legal title.

3. Drainage and Flooding Concerns

Professional drainage and engineering advice has been sought. The Chartered Engineer has consulted the “Winter Rain Acceptance Potential” Charts and advises that there is a range of easily manageable engineering solutions that would not impact upon the existing drainage infrastructure.

4. Stability of the Ground

Once again this is a fundamental point which we would address under engineering supervision. At development stage a full Geotechnical investigation and report will be carried out to the satisfaction of the Planning Authority requirements. Our engineer advises that this can be readily addressed.

5. Proximity to the Graveyard

It is our clear belief that any development would neither be visible from the approach road to the graveyard, nor from the graveyard itself. The site sits well below the graveyard which has a large stone boundary wall; consequently there is no impact or visual intrusion. Most villages have graveyards centrally positioned with housing in the environs. There are a number of recent and ongoing developments around graveyards where housing is encroaching and clearly visible. This is not the case here and should be dismissed as a reason to interfere with consent.

6. Excessive Traffic

Relative to many villages the thoroughfare in Balintore is quiet and we believe any additional traffic will be easily manageable and should not impose any significant increase in risk. I am sure this question is equally valid of any additional housing. Having had input from Area Roads we have reached an amicable understanding on the reduced number of houses and the relative road junction geometry.

7. The Development is out of Character

There is already a mix of bungalows, villas, detached, semi-detached and terraced properties in the village. We have not yet, at this outline stage, suggested materials or finishes and, as such, this comment is surprising. We would expect to have guidance from Highland Council as to what will ultimately be acceptable materials, finishes and styles in keeping with the desired character of the area. I believe this objection is frivolous especially at this early stage.

8. Boundary Issues

There has been a question raised regarding the boundary shown on our title document. This is outwith the development area and does not impact upon it. Planning have said this is a legal issue outwith their remit. To be fair and thorough in our dealings we have initiated a meeting with the neighbour concerned and will amicably address the matter outwith the framework of this letter.

9. Access Road Concerns

On 26th August we had a site meeting with the Roads and Transport Department and the Planning Department when suitable access arrangements and visibility splays were confirmed as comfortably meeting the required standards.

10. Environmental Impact

Light and noise pollution have been suggested. Concerns would be borne in mind during site works, aiming for a sympathetic end development meeting Highland Council requirements in these respects.

11. Not identified by Local Plans for Further Development

We believe the site is earmarked and zoned for residential development.

12. Local Sewage System is at Capacity

We have no information as to the sewage system capacity. This is a point we would expect the Highland Council to comment upon. There is specific reference to an historic blockage problem encountered by the hotel drains. We engaged Morrison of Tain and Dyno-Rod who remedied this. The actual cause of the blockage was the incorrect disposal of large amounts of baby wipes by the live-in manager of the Hotel and not a capacity related issue.

13. Construction Disruption

We would take steps to minimise any disruption and work within operating confines agreed with the Highland Council - such as site operating hours etc.

14. Trees on Site

There are a small number of trees on the site, most would be unaffected. If any trees have to be removed they will be replaced in number during landscaping. The site has few trees, certainly no significant hardwoods.

15. A prior application for Planning has been declined

We were unaware of this and it should have no bearing on our application. The ground is zoned for residential development.

16. Overdevelopment

Overdevelopment was a question raised combined with the question of privacy and overlooking. In discussion with yourselves we have radically reduced and repositioned the proposed development to address these matters.

4.4 The letters of representation can be viewed online, at the Area Planning Office in Golspie, and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

5. **CONSULTATIONS**

5.1 **Balintore & Hilton Community Council** : Objects on the following grounds:

- Loss of privacy to the existing dwellings – the proposed dwellings will directly overlook the existing houses.
- Loss of a facility to the villages – namely the beer garden at the hotel, which is well used by local residents with families and visitors during the summer season.
- Potential drainage and flooding problems – the bank at the rear of the houses is sand, gravel and loose stones, this currently absorbs much of the rainfall, with buildings, tarmac and concrete covering much of the area this will substantially increase the rainfall run-off. It is noted that the land has historic use as a fuel storage depot.
- Stability of the ground and its proximity to the graveyard – any building on the site would require major ground works to make it stable and this is likely to affect the graveyard.
- Danger caused by vehicles emerging from the proposed development onto East Street which is the route taken by most of the children from Balintore to and from the local school – with up to 4 dwellings and with parking for 8 vehicles this will substantially increase the traffic flow.
- The development is out of character with the village and would therefore be inappropriate.

5.2 **TEC Services** : No objections – The applicant must demonstrate that 2.5 x 30 metre minimum visibility splays can be achieved from the proposed, not to be adopted, access. Should the required visibility splay be demonstrated, the attached standard conditions would apply. There are also possible drainage issues, the solutions for which have not been addressed by the applicant at this stage.

5.3 **Archaeology** : No objections – Recommend condition ARC 3 (photographic record).

5.4 **Contaminated Land** : No objections – Records indicate that part of the site has an historic use for fuel storage and distribution, which may have resulted in land contamination. A condition is recommended to ensure an assessment of potential contamination issues and details of any required remedial action.

5.5 **Scottish Water** : No objections.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Structure Plan 2001

G2 Design for Sustainability

6.2 Ross & Cromarty East

Chapter 31 Policy 1 H: Housing

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

The proposal accords with the adopted development plan. The most relevant policy for assessing this application is Chapter 31, Policy 1 of the Ross and Cromarty East Local Plan (2007) which allocates land for housing and states that '*Proposals for further infill development must take account of the character of the pattern and design of the existing "Fishertown" houses.*' While the design of the housing is not in question at this stage, it will be a key consideration in any Matters Specified in Conditions application.

8.4 Material Considerations

Privacy – The previous application for this site (see section 3.1 above) sought planning permission in principle over a larger site area, including the steep areas of land leading up to the north-west boundary with the cemetery. This application was withdrawn due to concerns over privacy/overlooking, particularly due to the fact that much of the development would take place on elevated parts of the site.

The site area has now been reduced in size and avoids developing the steeper parts of the land to the rear of the hotel. The indicative number of units has also been reduced from 10 to 4. The current site of application is not considered to present any significant privacy/overlooking issues. The indicative layout for the four units shows that units 1-3 will not directly overlook any neighbouring properties, to some extent reflecting the footprint of existing buildings to the rear of the hotel. Unit 4 is shown orientated directly towards the rears of numbers 3 and 3.5 East Street, but with 28 metres separation. This separation distance is considered sufficient to prevent any significant impact upon the amenity of these neighbouring properties.

Loss of beer garden – Representations raise the issue of the loss of a community facility in the form of the beer garden. The beer garden is to be removed to allow for the creation of an access into the site. It is not considered reasonable for the Planning Authority to judge the benefit of this facility to the wider community or judge the application unacceptable on the basis of loss of the beer garden, particularly as there are no specific policy grounds that require the protection of this type of facility.

Visibility from access – A site meeting between TEC Services, Planning and the applicant confirmed that the 30m visibility splay from the proposed access is achievable. TEC Services have no other objections to the application. As the number of units has now been reduced to 4, there is no requirement for the road to be formally adopted. Representations raise the issue of street lighting impacting negatively upon neighbour amenity, however, as the road does not require adoption, there is no requirement for street lighting.

Stability of ground – The steeper sections of the land to the rear of the hotel are not included within the site of application. However, the applicant has indicated that a full geotechnical investigation and report will be carried out at development stage. The permission can be conditioned to make this a requirement of any matters specified in conditions application.

Drainage – Representations raise issues over the impact of the development upon the existing drainage network. Scottish Water have not objected to the proposal. Notwithstanding this, a 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 sufficient spare capacity. Drainage details will form part of any matters specified in conditions application.

Impact upon the character of the area – Representations raise concerns over the development being out of character with the existing settlement pattern. Balintore comprises a mix of different densities and housing types. There is an existing house (1 Quarry Road) and planning permission in principle to the rear of East Street, which set a precedent for this development. The 4 units indicated do not have a level of garden space consistent with the immediate area. However, this could be addressed by reducing the number of units at the detailed stage.

Trees and wildlife – There are no protected trees within the site of application or on the land between the site of application and boundary with the cemetery. As the site of application has been reduced, many of the existing trees between the site boundary and cemetery can be retained. It is not considered that the habitats on this site or in the immediate vicinity are of high biodiversity value.

Proximity of development to cemetery – the representations raised the issue of a 25m development exclusion zone around the cemetery being applied to an existing site adjacent to the cemetery which currently has permission for housing. The Planning Authority or consultees did not advise the developer that there must be a 25m buffer zone around the cemetery, it was the decision of the developer to create this area of separation. Therefore, there is no justification for applying the same exclusion zone to this application.

9. CONCLUSION

- 9.1 The proposal is considered to comply with the development plan. The revised application has satisfied concerns over overlooking and privacy by reducing the site area and number of units. A site meeting with TEC Services confirmed that the 30 metre visibility splay from the access can be achieved. No consultee objections have been made.

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.

1. This planning permission in principle shall lapse THREE YEARS from the date of this permission should no subsequent application for the approval of matters specified in conditions be submitted within this time. In any case, the development to which this permission relates must commence no later than THREE YEARS from the date of this permission, or TWO YEARS from the date of approval of any matter(s) specified in conditions, whichever is the later.

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

2. A further application, or applications, for the approval of matters specified in this condition must be made within THREE YEARS of the date of this decision notice. The application shall be in the form of a detailed layout of the site (including landscaping and car parking), and detailed plans, sections and elevations of the building/s. The MATTERS specified in this condition are the siting, design and external appearance of any building(s), the means of access and landscaping.

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

3. Notwithstanding design and materials are Matters Specified in Condition 2 above, the houses shall be single or one-and-a-half storeys only, and shall reflect building styles and use of materials traditional within the area. Houses shall have a minimum roof pitch of 40° and shall be finished with natural slate, or an alternative of similar size, colour, texture, profile and thickness, or as otherwise may be agreed in writing with the Planning Authority. For the avoidance of doubt suitable alternative non-slate tiles are:

- Marley 'Monarch', 'Clansman', 'Marquis', 'Melbourn', 'Birkdale', 'Edgemere'
- Redland 'Richmond', 'Lakeland', 'Cambrian', 'Saxon'

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

4. Notwithstanding exact siting is a Matter Specified in Condition 2 above, the position of each house shall be pegged out on site for the prior approval of the Planning Authority, in writing, and any application for the approval of Matters Specified in Condition shall be accompanied by cross sections and levels showing the finished floor level in relation to an agreed and fixed datum. Any application for the approval of Matters Specified in Condition shall also be accompanied by a full geotechnical investigation and report by an appropriately qualified person to demonstrate the stability of the site to accommodate the development proposed.

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

5. Notwithstanding landscaping is a Matter Specified in Condition 2 above, a fully detailed scheme of landscaping for the site, including a scheme of maintenance, shall be submitted to and require the approval in writing of the Planning Authority. All planting thereby approved shall be undertaken in the first planting season following the completion of the first house.

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

6. All access arrangements shall be provided to the satisfaction of the Planning Authority, in consultation with the Roads Authority, and in accordance with the Schedule attaching to this permission, prior to occupation of the first house.

Reason : In the interests or road safety.

7. All drainage arrangements shall be to the satisfaction of the Planning Authority, in consultation with the Scottish Environment Protection Agency, the Drainage Authority, and the Building Standards Authority.

Reason : In the interests of amenity and public health.

8. Prior to the commencement of development, a photographic record shall be made of the remains of old buildings and / or other features affected by the proposed development, in accordance with the attached specification, and shall thereafter be submitted to the Planning Authority. No site clearance work shall take place until confirmation in writing has been received from the Planning Authority that the record made has been lodged and is satisfactory.

Reason : The remains of buildings and other features affected are of historic interest and are of value to future research, and as such they should not be destroyed without being recorded.

9. Prior to the commencement of development, a scheme to deal with potential contamination on site shall be submitted to and agreed in writing by the Planning Authority. The scheme shall include:

(a) the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be submitted to and agreed in writing by the Planning Authority, and undertaken in accordance with PAN 33(2000) and BS10175:2001;

(b) the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works, and proposed verification plan to ensure that the site is fit for the uses proposed;

(c) measures to deal with contamination during construction works;

(d) in the event that remedial action be required, a validation report that will validate and verify the completion of the agreed decontamination measures;

(e) in the event that monitoring is required, monitoring statements shall be submitted at agreed intervals for such time period as is considered appropriate by the Planning Authority.

Prior to the commencement of the development, written confirmation that the scheme has been implemented, completed and, if required, monitoring measurements are in place, all to the satisfaction of the Planning Authority, shall be required.

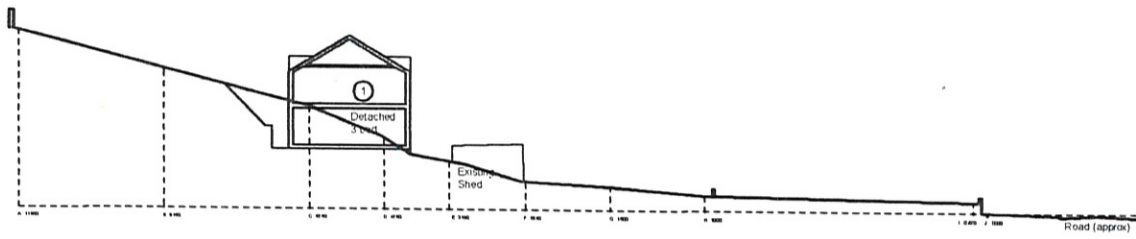
Reason : Records indicate that part of this site has an historic use for fuel storage and distribution, which may have resulted in land contamination and in order to ensure that contamination within the site is adequately assessed and remediated such that the site is fit for purpose.

Signature: Allan J Todd
Designation: Area Planning & Building Standards Manager
Caithness, Sutherland and Easter Ross
Author: Rebecca Hindson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location/site plan



10/02996/PIP
Construction of Residential Housing (4 Detached Units) at
Land to the North of Balintore Hotel, East Street, Balintore.

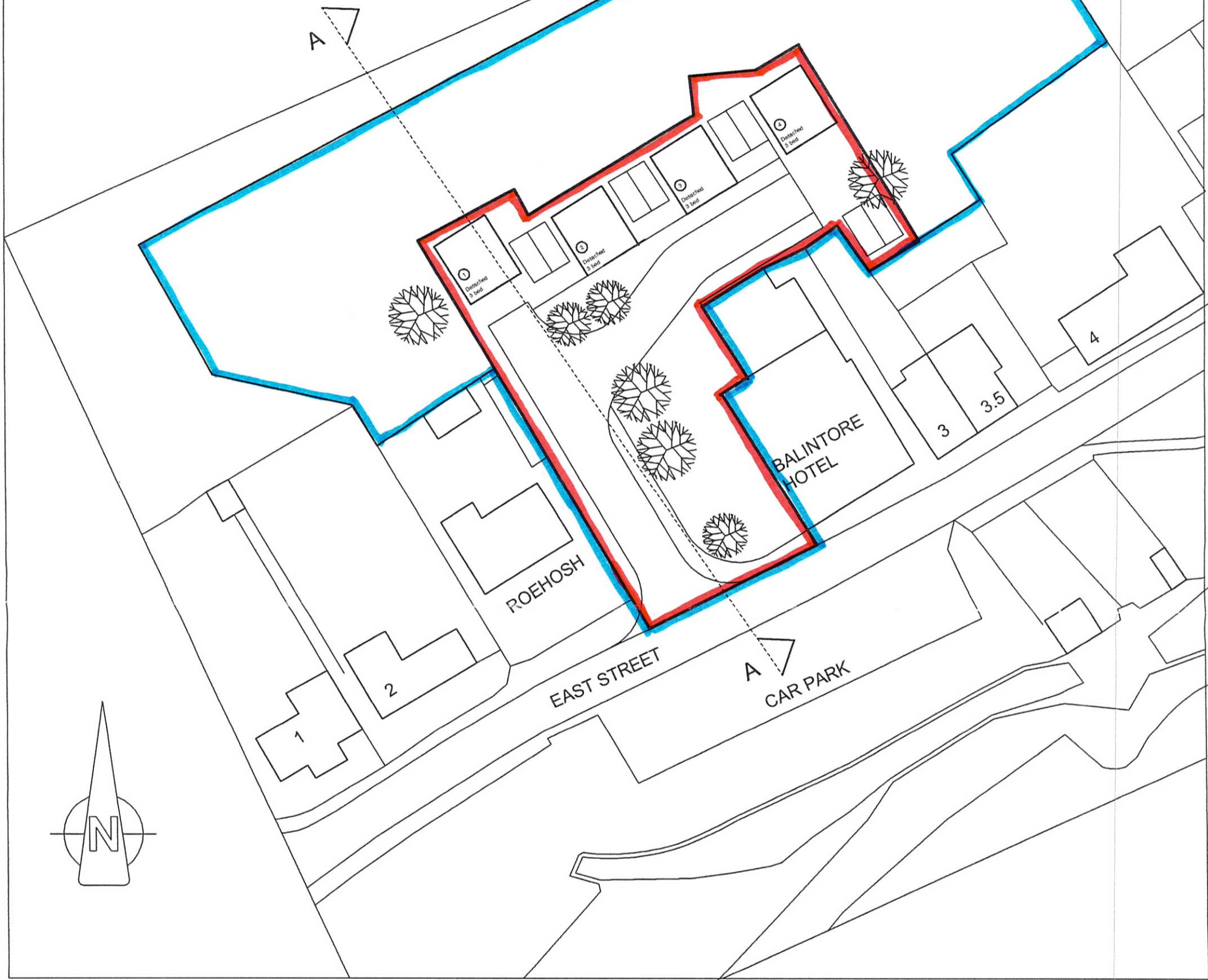
Mr J MacGregor
per R C Kerr
10 Castle Street
Fortrose
IV10 8TH



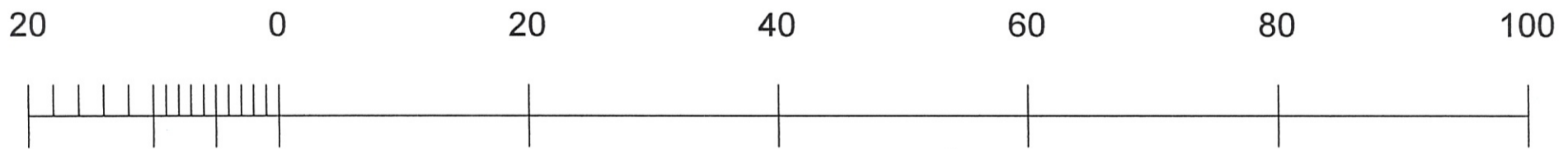
SECTION A - A - PROPOSED

RECEIVED

10 SEP 2010



SITE PLAN - POTENTIAL DIAGRAMMATIC LAYOUT ONLY
Scale - 1: 500



PROPOSED HOUSING DEVELOPMENT BEHIND BALINTORE HOTEL
FOR PENINSULA HOSPITALITY.

R C Kerr Architect
10 Castle Street,
Fortrose IV10 8TH Tel 0790 966 6762

Date - September 2010
Project No.- 406-PH-RL3
Drwg No - Sketch 04B