

THE HIGHLAND COUNCIL

CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 1 February 2011

Agenda Item	3.3
Report No	PLC/003/11

**10/02110/FUL : Mr David Valentine
Fairview House, Barbaraville**

Report by Area Planning and Building Standards Manager

SUMMARY

Description : Garden Centre, Tea Room and Farm Shop, access and car parking

Recommendation - GRANT

Ward : 08 - Tain And Easter Ross

Development category : Local Development

Pre-determination hearing : None

Reason referred to Committee : Objection from Kilmuir and Logie Easter Community Council.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for a small scale garden centre comprising a single storey L-shaped timber clad building adjacent to the road at the north-western corner of the site. This building measures 11m x 11m at maximum and would have a felt covered low pitch roof. It would be used as a café. The remainder of the site has 25 car parking spaces and a polytunnel (20m x 16m x 4m – clear material), with open space for outdoor garden plants.
- 1.2 Informal pre-application discussions were undertaken with the applicant in 2008.
- 1.3 There is an existing field gate, but no other known site infrastructure.
- 1.4 The applicant has submitted supporting documents setting out technical issues of the proposal and site history, including a transport statement.
- 1.5 No variations have been made to the application since submission.

2. SITE DESCRIPTION

- 2.1 The 0.47ha site is set in an existing gap – currently an open field with an open outlook towards the Cromarty Firth – between houses in the village. It lies below the B817 and the ground gently slopes from northwest to southeast towards the Firth. The site has a frontage onto the B817 through Barbaraville of approximately 45m, with a maximum depth from the B817 of around 75m. To the north side of the site is the Mull Hall retirement housing. The junctions to the application site and Mull Hall are offset by around 32m.

The existing housing on the south side of the road generally ‘hugs’ the road and there is little development of the lower lying agricultural land. Houses are located to the southwest and northeast of the site.

3. PLANNING HISTORY

- 3.1 No previous applications for the site.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Schedule 3, Neighbour notification

Representation deadline : 16 August 2010

Timeous representations : 1

Late representations : 2

- 4.2 Material considerations raised are summarised as follows:

- Flood risk
- Road safety – both in Barbaraville and on the U1473 which links the A9(T) over the level crossing at Delny to the B817 coast road through Barbaraville
- Vehicle speeds in Barbaraville – lowering speed limit
- Security fencing along boundary wall with application site

- 4.3 All letters of representation can be viewed online www.highland.gov.uk, at the Area Planning Office and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

5. CONSULTATIONS

- 5.1 **TEC Services** : No objections. A visibility splay of 120m is required. The development may have an impact on the nearby Delny level crossing.

- 5.2 **Contaminated Land Unit** : No objections.

- 5.3 **Scottish Water** : No objections

- 5.4 **Kilmuir and Logie Easter Community Council** (19 August 2010) : Support application in principle but with reservations on various issues surrounding road safety and speed limits. Without resolution of these issues, unable to support the application.

5.5 **Network Rail** : We were glad to receive a transport statement from the applicant in respect of the planning application for a Garden Centre and Café at Barbaraville. This statement clarifies the intention of the applicant in respect of their own actions in regards traffic management and the likely reasonable consideration of the impact of the development upon the Level Crossing at Delny.

We appreciate that a full transport analysis would be disproportionate to the level of development proposed by this application. The traffic report as submitted indicates an increase of traffic movement of about 20 vehicles per day (incoming and outbound) traffic over the crossing. Whilst this contributes to the overall cumulative impact of development in this area to the level crossing at Delny, the level of additional traffic demand is not likely to create unreasonable additional impacts upon the crossing.

The traffic report also confirms that:

- There is no signage for Barbaraville via the A9 and subsequently across the Delny Road.
- There are two shorter (in mileage) routes to the garden centre.
- The primary deliveries associated with the development would be HGV and unable to use the Delny level crossing which is a restricted route to less than 7.5 tonnes.
- Local resources are proposed in respect of any additional delivery requirements.

On the basis of the submitted information we have carried out an additional risk assessment and can confirm that the indicated level of traffic does not alter the ALCRM score for the crossing. Network Rail therefore lifts our objection to the proposed garden centre and thanks the Highland Council for ensuring due consideration of the proportionality of the impacts upon safety of the public rail infrastructure.

We appreciate the Council's consideration in respect of cumulative development and the acknowledgement that further development could have serious consequences in the aspiration for train service improvement in the Highland area. We also note the comments by Kilmuir & Logie Easter Community Council. Whilst we have now removed our objection to this development we would highlight that incremental development can chip away at both safety and line speed at any level crossing and look forward to their future support in our campaigns at this crossing.

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 and Cromarty East Local Plan**

BP3 The Council will only approve development if there are no significant adverse effects on heritage, amenity, public health and safety interests.

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**

Not applicable

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 design and layout of the proposed garden centre are considered to be acceptable. Whilst the centre lies between the houses 'Craiglea' to the northeast and 'Donbank' and 'Seaview' to the southwest, it is considered that the development will not have a significantly adverse impact on these and will not have any significantly detrimental impact on their existing individual or community residential amenity. The development therefore accords with development plan policy G2 Design for Sustainability. Whilst the Ross and Cromarty East Local Plan identifies the site under policy BP3, it is considered that the site is acceptable for the proposed use and therefore the proposal is not a departure from policy.

8.4 **Material Considerations**

The applicant has provided a supporting statement outlining the proposed operation of the garden centre. This indicates the hours of opening as 1000-1700 every day, with reduced hours November to March. The applicant anticipates no more than 3 to 4 deliveries each week, with the sales area inside the polytunnel. External lighting would be controlled by movement sensor security lighting and no advanced signage is intended at present.

An accompanying transport statement has been assessed by Network Rail in relation to their original objection to the proposal as it may have had an impact on traffic flows over the nearby Delny Level Crossing. This assessment has indicated that although there will be an increase in traffic movement over the crossing, the level of additional traffic demand is not likely to create unreasonable additional impacts upon the crossing.

The proposal is therefore acceptable with regards to the access and road servicing requirements of Structure Plan policy G2.

Representations

Those raised by the Community Council relate to:

- Vehicle speeds through Barbaraville – This is a police matter. TECS have indicated that the criteria for a reduced speed limit are not met and that there are no plans to reduce the speed limit from 40 to 30mph.
- More traffic using the level crossing – Proposal is not considered to result in a materially significant increase in traffic using the crossing.

In addition to the above matters, third party representations also highlight:

- Flood risk – TEC Services have not highlighted any flood issues.
- Security fencing along boundary wall with application site – This can be controlled by condition.

8.5 Other Considerations – not material

None

8.6 Matters to be secured by Section 75 Agreement

None

9. CONCLUSION

- 9.1 The development of a garden centre and small tearoom is considered to be acceptable and accords with Development Plan policy. The proposal will add a new small scale commercial development to the village which is to be welcomed. The representations relate principally to existing access and road safety concerns in Barbaraville and do not directly relate to the application. Members will note that TEC Services and Network Rail have assessed the proposal and have indicated that it is acceptable. Whilst the imposition of speed restrictions is a material planning consideration, the enforcement of existing vehicle speeds is a police matter. However, in this case, TEC Services have confirmed that the criteria for a reduction in the speed limit are not currently met.

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.) 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 docquetted 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.) All access arrangements shall be provided to the satisfaction of the Planning Authority in consultation with the Roads Authority prior to the first opening of the garden centre and in accordance with the attached schedule.

Reason: In the interests of road safety.

(6.) All drainage arrangements shall be provided to the satisfaction of the Planning Authority in consultation with the Building Standards Authority.

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

(7.) Unless otherwise approved in writing by the Planning Authority, the approved garden centre shall only operate between 1000-1700 Monday to Sunday.

Reason: In the interests of residential amenity and in order to avoid disturbance and nuisance.

(8.) No development shall take place on site until the developer has submitted written and plan details of the proposed boundary treatments around the site, including a scheme of maintenance, for the approval in writing of the Planning Authority. For the avoidance of doubt, the boundaries of the site with the adjacent houses 'Donbank', 'Seaview' and 'Craiglea' shall be fenced with appropriate security fencing and the planting of trees and shrubs. All boundary treatments thereby approved shall be carried out by the developer within the first growing season following the opening of the garden centre and shall thereafter be maintained in accordance with the approved scheme of maintenance. Any trees or plants which, within a period of five years from the opening of the garden centre die, are removed, or become seriously damaged or diseased, shall be replaced in the immediately following planting season with others of a similar size and species.

Reason: In the interests of amenity and in order to ensure that the development is adequately screened.

(9.) No development shall take place on site until the developer has submitted a written and plan specification of all external lighting of the garden centre for the approval in writing of the Planning Authority. For the avoidance of doubt, this plan shall detail the location, type, height, bulb type and orientation of all external lighting of the premises. The lighting shall thereafter be undertaken in accordance with the approved plans within 3 months of the first opening of the garden centre.

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

FOOTNOTE TO APPLICANT RELATIVE TO APPLICATION 10/02110/FUL

Please note: Your attention is drawn to the conditions attached to this permission. Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to meet these conditions may invalidate your permission or result in formal enforcement action.

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 may 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 – Site Plan
Plan 2 – Café - Plan and Elevations
Plan 3 – Polytunnel - Plan and Section

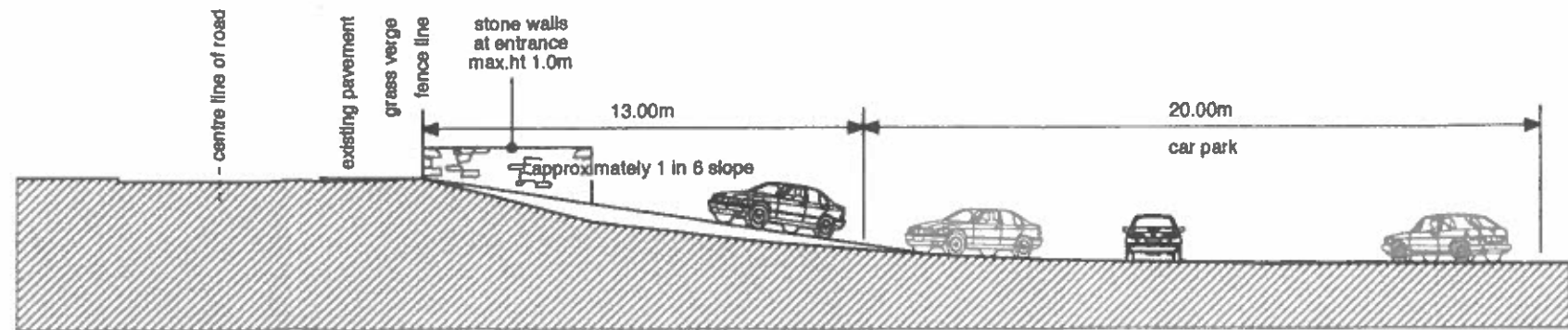
Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mrs Jean Scott	Seafield, Barbaraville	02.08.2010	No objection in principle but concerns regarding flooding, boundary fencing and traffic volumes.
Residents of Kilmuir Easter (7 signatures)	3 Polnicol Cottage, Kilmuir Easter	08.09.2010	Do not object to the proposal <i>per se</i> but raise concerns relating to road safety and access.
Rose Hazel – Petition (48 names) on behalf of residents of Kilmuir Easter, visitors and road users	3 Polnicol Cottage, Kilmuir Easter	29.09.2010	Do not object to the proposal <i>per se</i> but raise concerns relating to road safety and access.



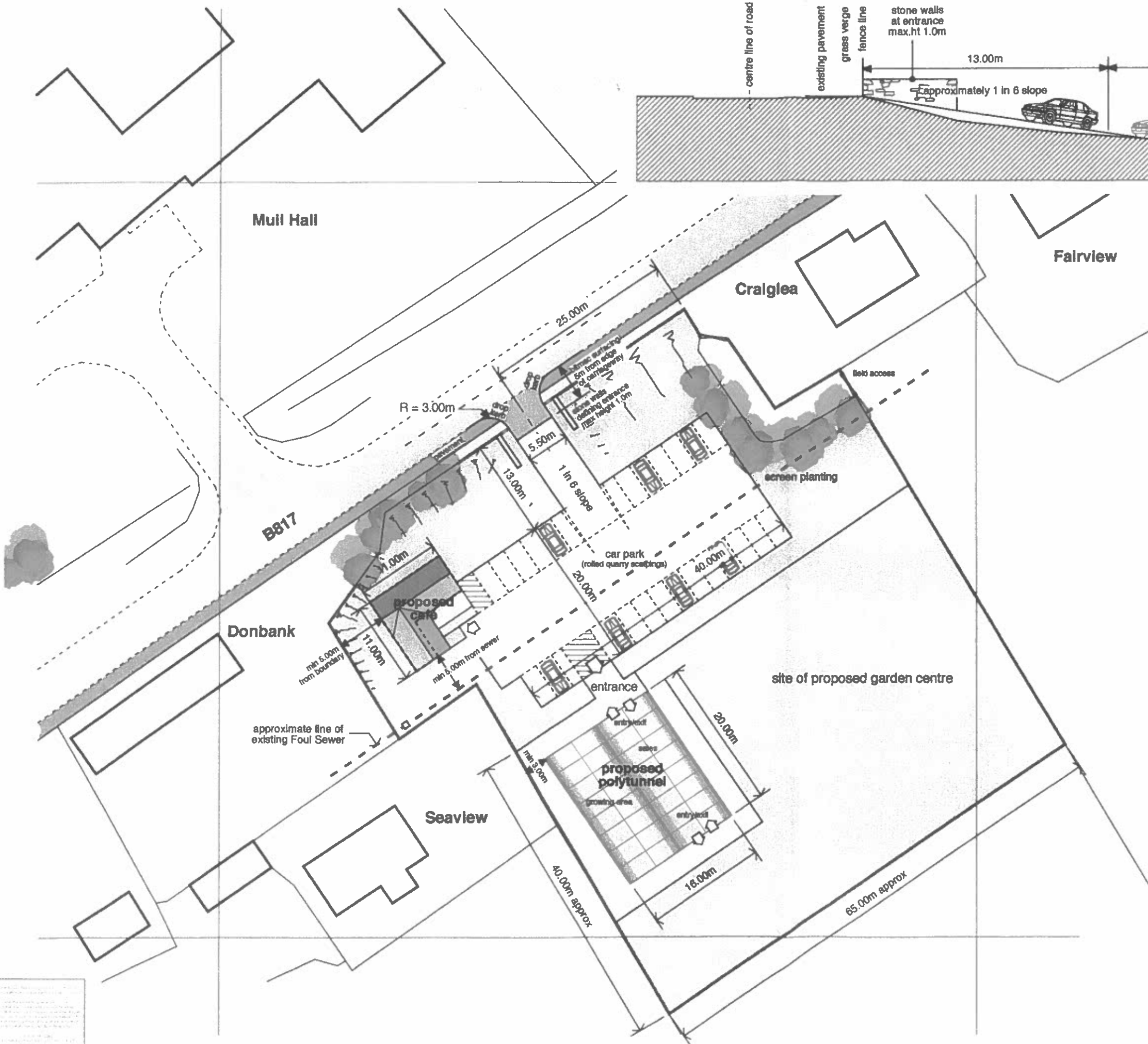
10/02110/FUL
 Garden Centre, Tea Room and Farm Shop, access and car parking at
 Fairview House, Barbaraville, Invergordon IV18 0ND

Mr D Valentine
 Fairview House
 Barbaraville
 Invergordon
 IV18 0ND



Site Section 1:200

north

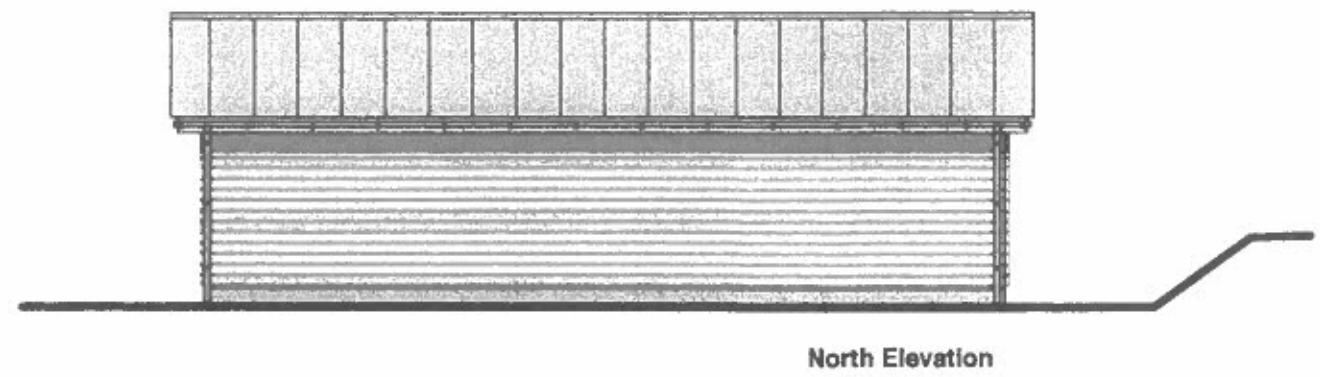
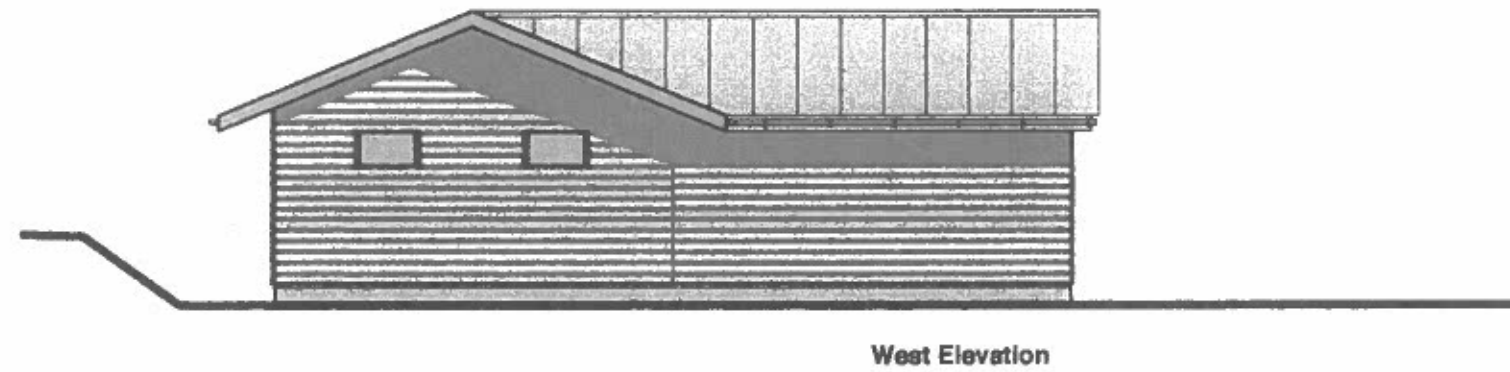
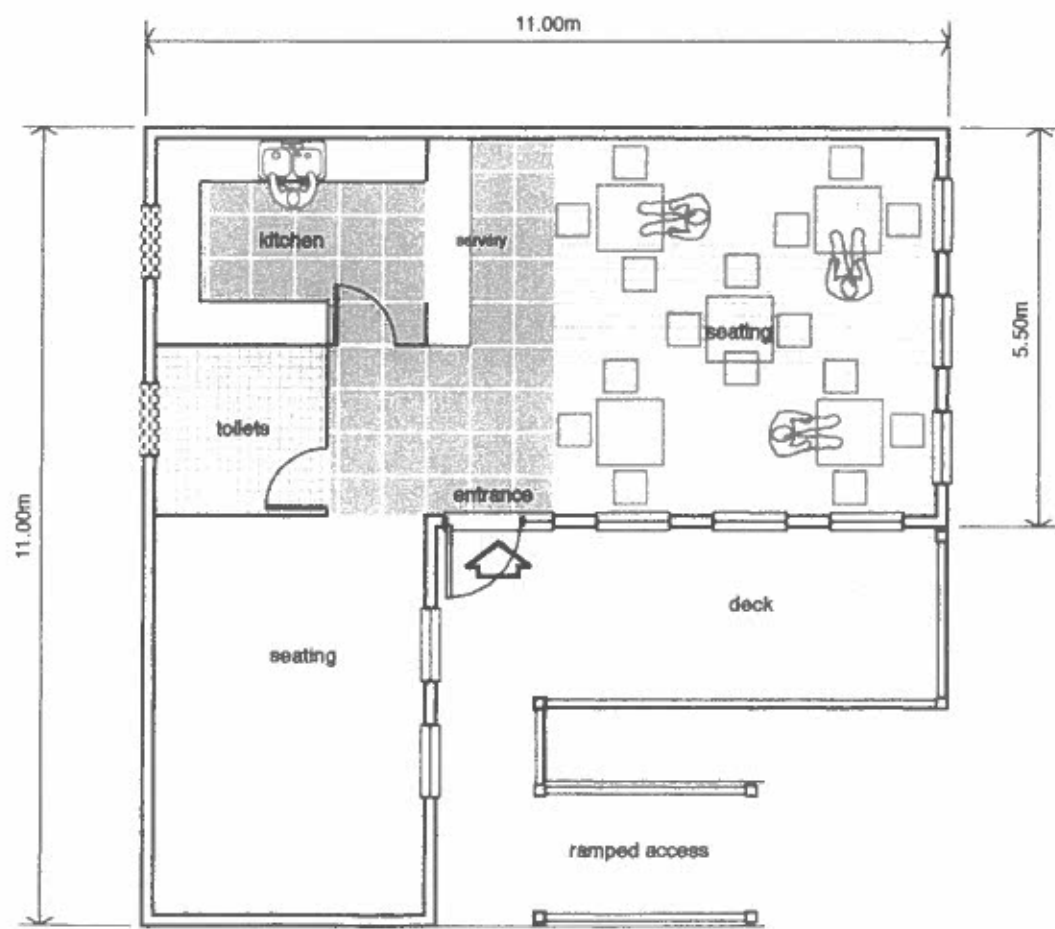
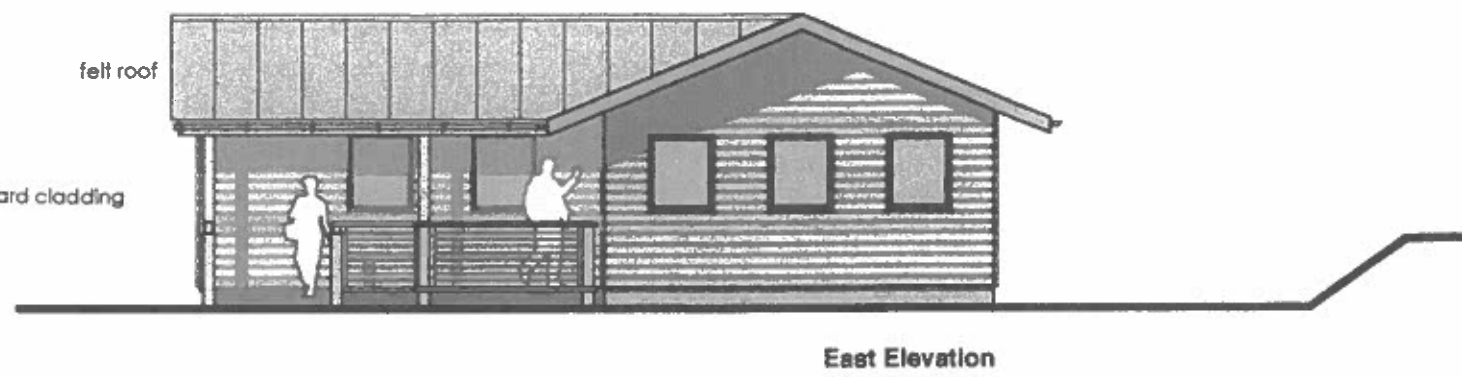
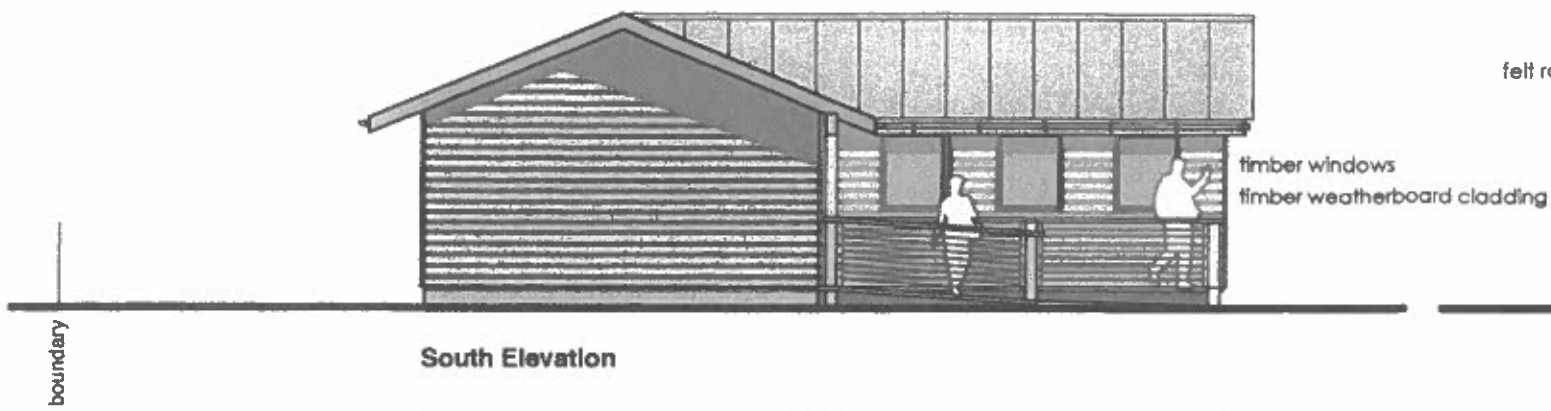


Location Plan not to scale

- B sewer shown; café altered 22.06.10
- A Café added; polytunnel size & postn altered 21.04.10

Proposed Garden Centre
Fairview, Barbaraville
Site Plan
dwg 0816/PL01.b 1:500 April 2008





Proposed Garden Centre
 Fairview, Barbaraville
Café - Plan & Elevations
 dwg 0816/PL02 1:100 22.06.10
 Iain Livesley Architect 01349 830023
 mail@livesley.co.uk