

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE
19 May 2015**

Agenda Item	6.4
Report No	PLS/34/15

**15/00453/FUL: Mr R C Tuxford
Tomdoun Hotel, Invergarry, PH35 4HS**

Report by Area Planning Manager - South

SUMMARY

Description : Proposed alterations and change of use from hotel to house.

Recommendation - GRANT

Ward : 12 - Caol and Mallaig

Development category : Local Development

Pre-determination hearing : n/a

Reason referred to Committee : 5 or more timeous objections / objection from Community Council

1. PROPOSED DEVELOPMENT

- 1.1 This application relates to the change of use of the Tomdoun Hotel to a residential dwelling. The Tomdoun Hotel ceased trading in December 2011. The application seeks minor alterations to the fenestration at first floor and the installation of velux rooflights to the second floor. The external fire escape stair at the rear of the hotel has been removed under permitted development rights.
- 1.2 Brief verbal advice was given to the agent to advise that a change from hotel to residential use would require planning permission.
- 1.3 The hotel site is accessed via two points to the public road which provide a looped driveway within the front curtilage of the building. A new septic tank with discharge via a soakaway is proposed. No alterations to the water supply or access from the public road are proposed by this application.
- 1.4 Supporting statement received 09.03.15 regarding history and feasibility of the site.
- 1.5 **Variations:** none

2. SITE DESCRIPTION

- 2.1 The Tomdoun Hotel is a two storey, stone built, detached property, built in the 1890's. The hotel is rectangular, orientated towards the public road and has two rear projections linked by a flat roofed timber extension. The roof is finished in natural slate. The Hotel is located to the north side of the public road between Invergarry and Kinloch Hourn. Invergarry is 10.5 miles to the east and Kinloch Hourn 16 miles to the west. The hotel is sited within an 80ha parcel of land which extends to each side of the public road. Tomdoun Cottage and Tomdoun Church are the nearest neighbouring properties to the hotel and are located 240m to the west.
- 2.2 There are no designated features of natural, built or cultural heritage within the site or with connectivity to it.

3. PLANNING HISTORY

- 3.1 n/a

4. PUBLIC PARTICIPATION

- 4.1 Advertised : not required
Representation deadline : 05.03.15
Timeous representations : 93 timeous objections from 86 separate households
Late representations : 10 late objections from 8 separate households
- 4.2 Material considerations raised are summarised as follows:
- Impact on tourism, employment and loss of community facilities
 - Works undertaken without planning permission
 - Impact on historic building – has the Council considered the potential for listing?
 - Hotel use remains viable at this site as evidenced by interest from prospective purchasers over recent years
 - Lack of notification of the application to local residents
 - Precedent set to retain hotel use by similar case in the Scottish Borders
- 4.3 All letters of representation are available for inspection via the Council's e-planning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **Invergarry Community Council** : Objects to proposal. Change of use detrimental to whole area which is benefitting from a period of regeneration. Loss of employment opportunities, social benefits, tourist and community facilities and impact on local economy.

5.2 **Historic Environment Team** : Advise that the Tomdoun Hotel is a late Victorian building which contributes to the area's built heritage but does not appear to be exceptional or have an historical association of note. Recent experience of proposing buildings of a similar date and, in some cases, an exceptional level of completeness both externally and internally, for listing has not had a positive outcome. HET suggest interested parties to pursue listing with Historic Scotland in their own right.

6. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

6.1 **Highland-wide Local Development Plan 2012**

28 Sustainable Design

36 Development in the Wider Countryside

6.2 **West Highland and Islands Local Plan (as continued in force 2012)**

The majority of general policies of the Local Plan pertinent to this application have been superseded by the policies of the Highland-wide Local Development Plan, 2012. The site is allocated within an area of 'wider countryside' by the WHILP and this allocation is continued in force.

Section 5.14 of the WHILP (as continued in force) notes the fragility of remote peripheral landward communities and advocates a mix of agency intervention and community self-help to secure lifeline services.

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not applicable

7.2 **Highland Council Supplementary Planning Policy Guidance**

Housing in the Countryside and Siting and Design

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Government Planning Policy (June 2014) requires to be considered in the determination of this application. It contains a principal policy statement relevant to this application – Placemaking, and a subject policy statement relevant to this application – Promoting Rural Development.

Placemaking

Para. 40 promotes a sustainable pattern of development. Considering the re-use or redevelopment of brownfield land before new development takes place on greenfield sites.

Promoting Rural Development

Para. 77 supports development in remote and fragile areas which will maintain and grow communities, which will provide sustainable economic activity and preserve important environmental assets, landscape and wildlife and underpin tourism and quality of place.

Para. 83 seeks to support and sustain fragile and dispersed communities through provision of appropriate development, especially housing and community-owned energy.

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

8.3.1 The principal policies of the HwLDP which must be assessed in the determination of this application are Policies 28 : Sustainable Design and 36 : Wider Countryside.

8.3.2 Policy 28 of the HwLDP promotes sustainable development which includes the re-use of brownfield sites and vacant buildings where development is adequately serviced, is compatible with existing and approved adjacent land use and where the proposal will not have an unacceptable impact on individual or community amenity.

8.3.3 Policy 36 of the HwLDP sets out the Council's policy for development within rural areas. This policy provides general support for development which will help to maintain population, infrastructure and services. The policy requires applications for the change of use or loss of a lifeline rural facility, for example a village shop, to provide information as why the facility/use is no longer feasible including evidence that it has been marketed for that purpose at a reasonable price/rent for a minimum period of 3 months.

8.3.4 Background Information

The Tomdoun Hotel is a traditional property built in 1895 as a fishing hotel to replace an earlier drover's inn (*The Western Seaboard : An Illustrated Architectural Guide, Miers 2008*).

The Tomdoun Hotel was owned by Tomdoun Hotel Limited from October 2001. A Winding Up Order was made on 7 December 2011 and a Liquidator appointed on 22 December 2011. The hotel and grounds were placed for sale on 12 January 2012. The hotel was initially marketed by Allied Souter & Jaffrey.

On 20 May 2013 a building warrant application (13/00902/DEMND) was received by the Council, from Matthews Developments Limited, for the demolition of outbuildings. The sale of the hotel site to Matthews Developments was not completed.

The hotel site was subsequently marketed by Bell Ingram in January 2014. The sales particulars from Allied Souter & Jaffrey state that "the hotel is maintained and decorated to a reasonable standard", but when the hotel was subsequently marketed in 2014 by Bell Ingram the particulars suggest that the condition of the hotel had deteriorated and the hotel was in need of complete renovation. A closing date was set for 20 June 2014. The asking price for the hotel and the 80ha site was set at offers over £225,000.

8.3.5 Principle of Development

This application seeks a change of use from an hotel to private residential property. External alterations are limited to changes to fenestration at first and second floor level. The external fire escape and some outbuildings have been removed under permitted development rights.

The Tomdoun Hotel is a traditional property built in the 1890's but is not listed. The building is of local cultural and historic interest, however the Historic Environment Team have advised that the hotel does not appear to meet the criteria set out in Scottish Historic Environment Policy (July 2009) and is not considered a suitable candidate for listing.

As the building does not benefit from the protection of listing it is accepted that the hotel could be demolished without planning permission or prior notification to the Planning Authority under Class 70 of The Town and Country (General Permitted Development) (Scotland) Order 1992, as amended. The intended retention and renovation of the building, which is of local interest, would accord with Policy 28 of the HwLDP.

Proposed external alterations to the building are minor in nature and not considered to undermine the character of the property. The proposed use as a dwelling is considered compatible with the surrounding low density mix of agricultural and residential buildings and the neighbouring church.

The application site is not identified as a fragile area within the HIE Priority Areas Map 2008. Section 5.14 of the WHILP, which is continued in force by the HwLDP, identifies remote peripheral landward communities, which are weakened by sparse population, a higher percentage of elderly people, lack of housing choice and difficulty in replacing jobs. The WHILP advocates a mix of agency intervention and community self-help to secure lifeline services, local employment, affordable homes, utility schemes, community transport and welfare improvements.

Policy 36 of the HwLDP requires applications for the change of use or loss of a lifeline rural facility, for example a village shop, within a fragile area to provide information as why the facility/use is no longer feasible, including evidence that it has been marketed for that purpose at a reasonable price/rent for a minimum period of 3 months.

The Tomdoun Hotel has historically provided employment opportunities, a community meeting place and tourist facilities. Hotel facilities, whilst valued locally, do not offer a lifeline rural facility in the same way that a village shop or GP surgery would. As the site is not located within the HIE defined fragile area and does not represent a lifeline rural facility, marketing evidence is not essential to the assessment of this application. Nonetheless, supporting information has been submitted which indicates that the Tomdoun Hotel site has been marketed by two separate estate agents between January 2012 and June 2014. This would appear to meet the requirements of Policy 36.

The letters of representation and agent's supporting statement refer to various offers made to purchase the hotel and to continue operation of an hotel at this site. It remains unclear why this interest did not come to fruition within the 30 month period between the closure of the hotel and its sale. The viability of the hotel is contended by the applicant and objectors. The agent highlights obstacles to hotel use including the economic downturn, the size of the building with limited numbers of en suite letting rooms and the estimated costs of renovation. The objectors highlight the sales particulars provided by Allied Souter & Jaffrey which state that the hotel could be operated at profit by experienced owner/managers, and the anecdotal evidence which points to other parties being interested in purchasing and operating the hotel.

The majority of objections to the proposed change of use are made on the grounds of loss of tourist and community facilities to serve Glengarry. Whilst Development Plan policy is generally focussed on support for new tourism/economic development, the Planning Authority would also encourage the retention of existing tourist and community facilities in the countryside and prevent loss where possible. It is acknowledged that the loss of these facilities could have an adverse impact on social and economic factors in the locality.

The Highland Council's development plan policy recognises the importance of tourism, jobs and facilities, particularly those in more fragile areas and promotes development which will strengthen these communities. The Planning Authority cannot require an existing business to continue to trade, but can consider whether there is justification to retain such facilities for later use.

The assessment of this proposal is one of balance between retaining a facility that is important to the local community, both socially and economically, and allowing re-use of an empty building. The supporting information does indicate that a reasonable effort has been made to market the hotel and continue its use; it also highlights the size, condition and design constraints which have limited the ability of the building to adapt to the requirements of a modern hotel. If there is unmet demand for tourist and community facilities within the local area, the market is likely to pursue the creation of such facilities in other ways. Planning policy would be generally supportive of this.

On balance it is considered that whilst the loss of the hotel in this remote area is regrettable, there are insufficient grounds to warrant refusal of this change of use application.

8.4 Material Considerations

- Impact on tourism, employment and loss of community facilities
Comment: Considered in section 8.3.5 above.
- Alterations being undertaken without planning permission
Comment: As the Tomdoun Hotel building is not a listed building, internal alterations to the building, removal of the external fire escape stair and demolition of outbuildings do not require planning permission.
- Impact on historic building – has the Council considered the potential for listing?
Comment: Yes, see section 8.3.5 above.
- Hotel use remains viable at this site as evidenced by interest from prospective purchasers over recent years.
Comment: The financial viability of the hotel is disputed. There is however, clear evidence that the hotel has been marketed in excess of the 3 months required by Policy 36 of the HwLDP. As such there are insufficient grounds to warrant refusal of this change of use application.
- Insufficient public notification of planning application
Comment: No neighbour notification was required for this application as no properties are located within 20m of the application site. Similarly, given the extent of surrounding land owned by the applicant, an unknown neighbour advertisement was not required. The Community Council were formally consulted on the proposals on 19 February 2015.
- Proposal contrary to Local Plan objectives – a successful community requires homes, jobs, services and facilities.
Comment: The application has been assessed in section 8.3 above and material considerations given due weight. The application is considered on balance to accord with adopted development plan policy.
- Precedent set by appeal decision by Scottish Government's Directorate for Planning and Environmental Appeals relating to the Crook Inn, Tweedsmuir, Scottish Borders
Comment: Planning applications must be judged on their own merits against adopted development plan policy taking into account the individual circumstances and material issues set out in each case. The reporter identified the determining issues of this appeal as firstly the effect of the proposals on the special architectural and historic interest of the listed building, and secondly the effects on tourism, the local economy and rural community.
The reporter noted in the case of The Crook Inn that the property had only been marketed for 6 months following a request from the Council and the price did not reflect the value of the building taking into account the extent of works required. A community company had been formed to exercise a right to buy the Inn and were investigating financial backing. The reporter noted that housing policies within the development plan were supportive of the proposed change to 4 residential flats, but gave weight to the harm which would occur to the listed building. These material considerations were sufficient to dismiss the appeal and refuse planning permission and listed building consent.

The appeal decision has been taken into account in the assessment of this application, however the circumstances differ significantly from the current application and do not set a precedent that warrants refusal of this application.

8.5 Other Considerations – not material

- A change in use from hotel to private residence will impact on fishing for locals and tourists

Comment: Fishing rights cannot be treated as a material planning matter. A change in ownership, even if hotel use of the site was continued, could lead to changes to access to fishing rights over privately owned land.

- The applicant's future plans to build 2-6 self catering cottages offers no mitigation for the loss of valuable facilities and function of the hotel.

Comment: Potential future development is not a material consideration of this application. Any future development would be subject to full consideration through subsequent planning application(s).

- Application should be rejected as there are spelling mistakes in the development description on the application.

Comment: The spelling mistakes made did not materially effect the processing of the application and were corrected by the Planning Authority when the application was checked and validated.

- The property will not be permanently occupied and should instead be bought and run by the community to continue use as a hotel which would have wider benefits to the community.

Comment: The Planning Authority are required to assess the application as submitted and cannot consider other potential uses for the site. Whether the site will be permanently occupied is not a material planning matter. It has been indicated to the Planning Authority that the community had considered the possibility of a community buyout but this was not pursued as there appeared to be commercial interest in the site. There is no indication that a community company has now been formed to continue use of the building as a hotel.

8.6 Matters to be secured by Section 75 Agreement

None

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

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**, without conditions, but subject to the following notes to the applicant :

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

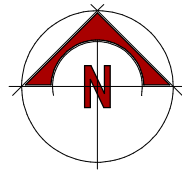
Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). 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 adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Christine Millard
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Ground Floor Plan Existing
Plan 3 – First Floor Plan Existing
Plan 4 – Second Floor Plan Existing
Plan 5 – Ground Floor Plan Proposed
Plan 6 – First Floor Plan Proposed
Plan 7 – Second Floor Plan Proposed

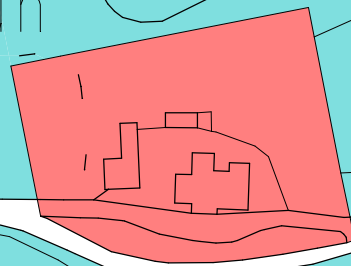


Cistern

BM 166.63

BM 159.24m

Tomdoun



142m

BM 139.57m

Tomdoun Hotel

Note
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.

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project
 PROPOSED CHANGE OF USE FROM HOTEL TO DWELLING HOUSE AT TOMDOUN LODGE, INVERGARRY

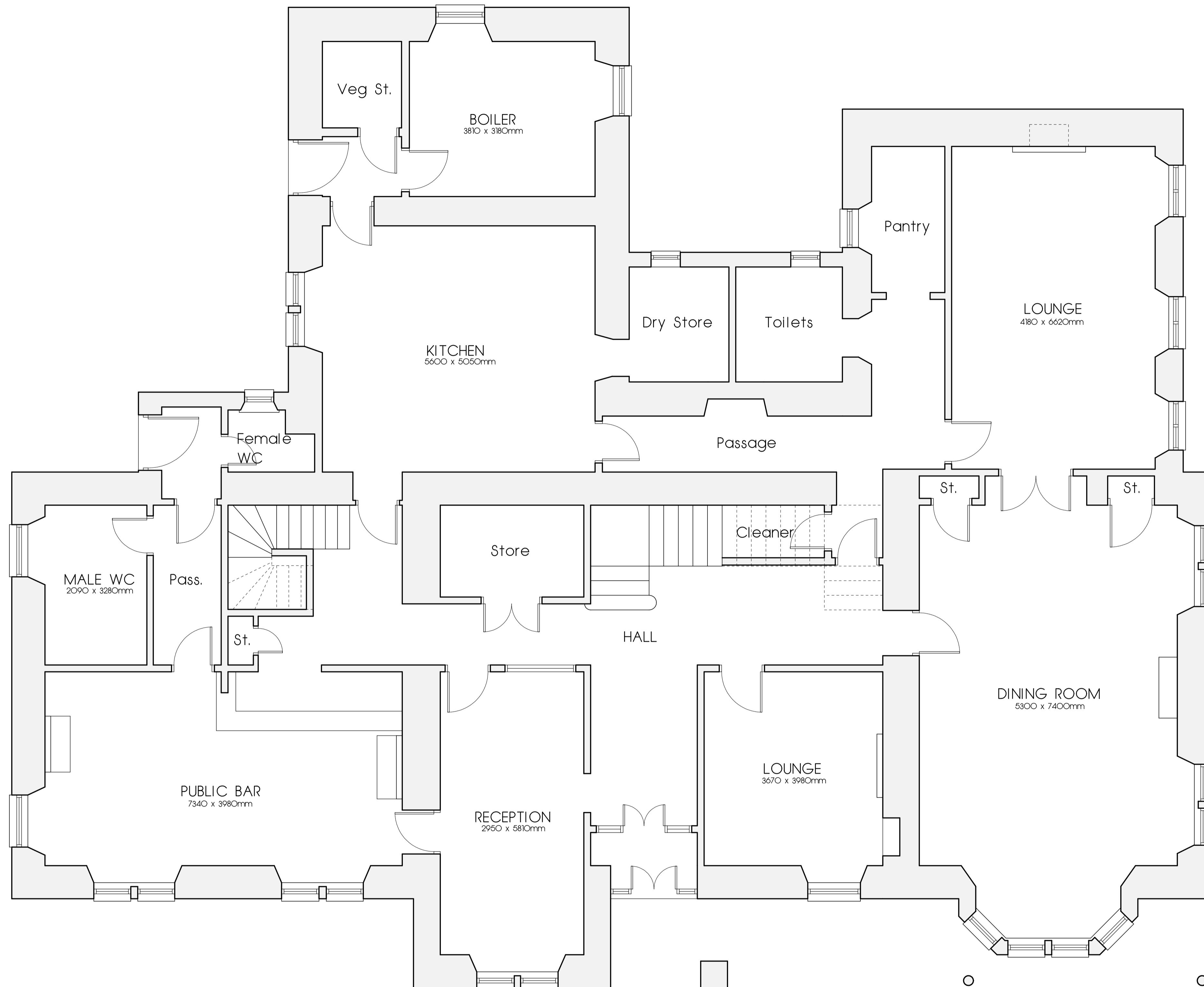
client
 MR. R. C. TUXFORD

detail
 LOCATION PLAN

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job no. 14/098	drg no. 100	drawn D. KELLY



GROUND FLOOR PLAN
AS EXISTING LAYOUT

Note
The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

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project
PROPOSED DEVELOPMENT AT THE
FORMER TOMDOUN HOTEL, INVERGARRY

client
MR. R. C. TUXFORD

detail
AS EXISTING -
GROUND FLOOR PLAN

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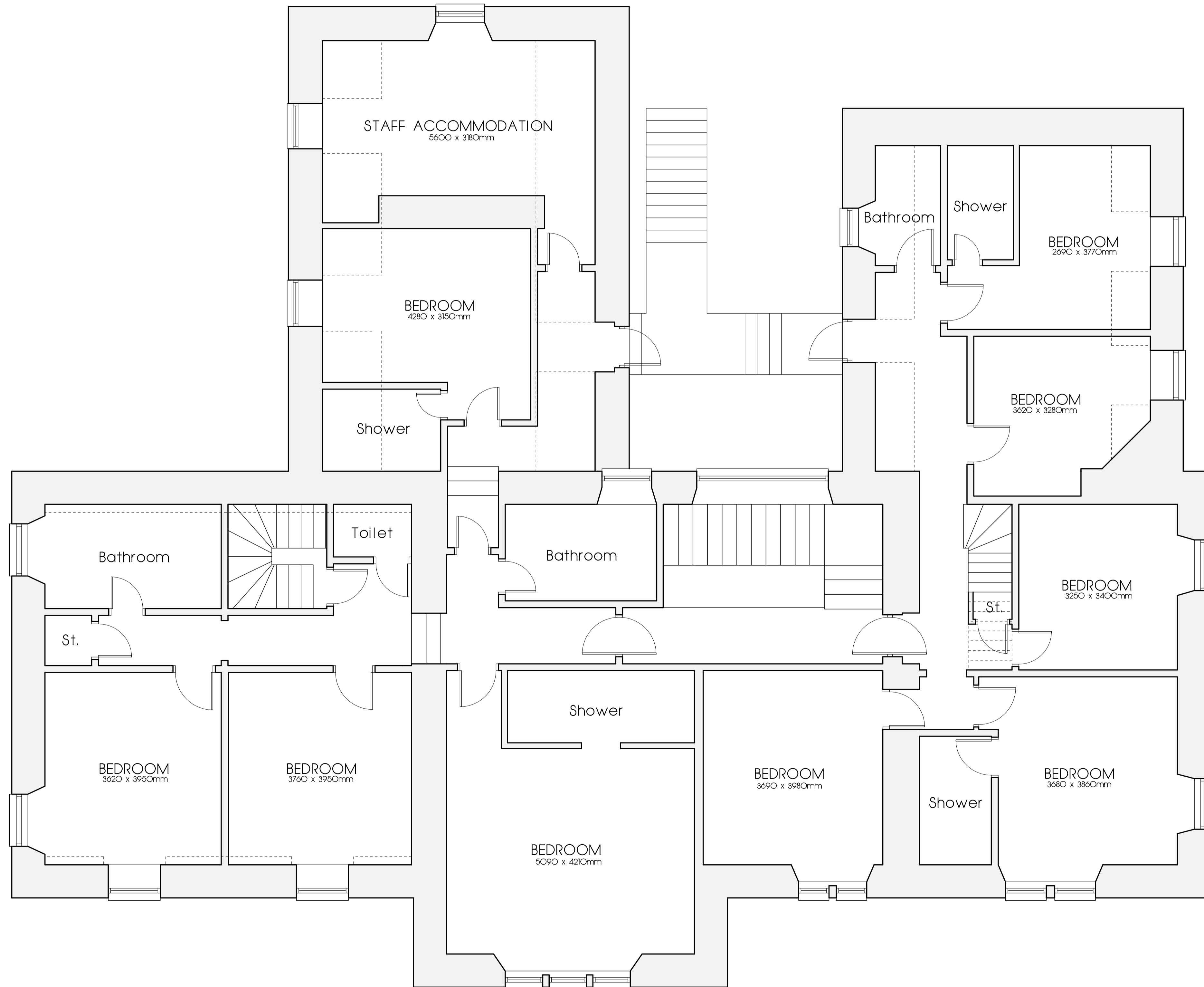
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job no. 14/098

drg no. 101

drawn R. KENNEDY



FIRST FLOOR PLAN
AS EXISTING LAYOUT

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FORMER TOMDOUN HOTEL, INVERGARRY

client
MR. R. C. TUXFORD

detail
AS EXISTING -
FIRST FLOOR PLAN

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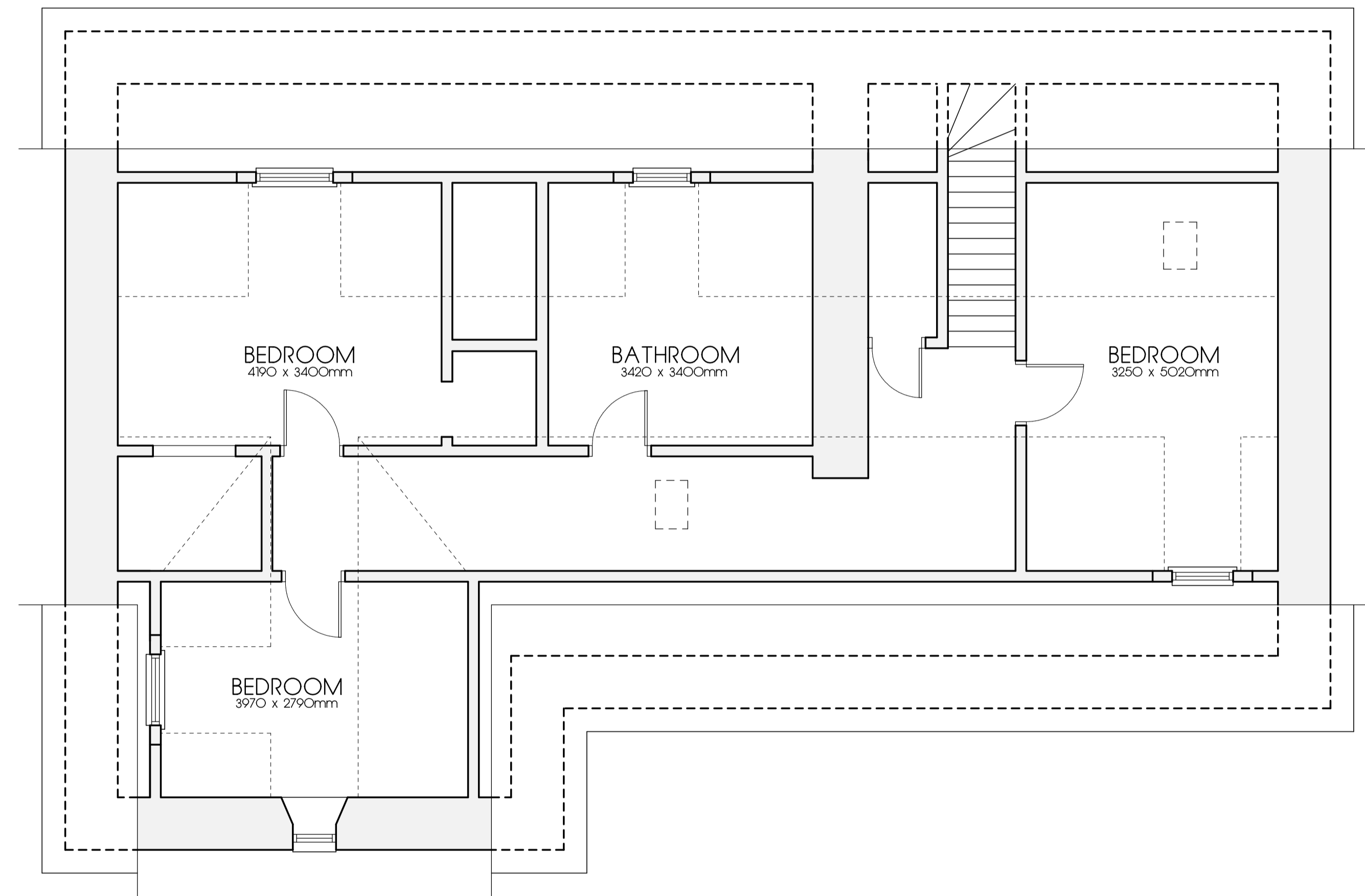
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job no. 14/098 drg no. 102 drawn R. KENNEDY

Note
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SECOND FLOOR PLAN
 AS EXISTING LAYOUT

project
 PROPOSED DEVELOPMENT AT THE
 FORMER TOMDOUN HOTEL, INVERGARRY

client
 MR. R. C. TUXFORD

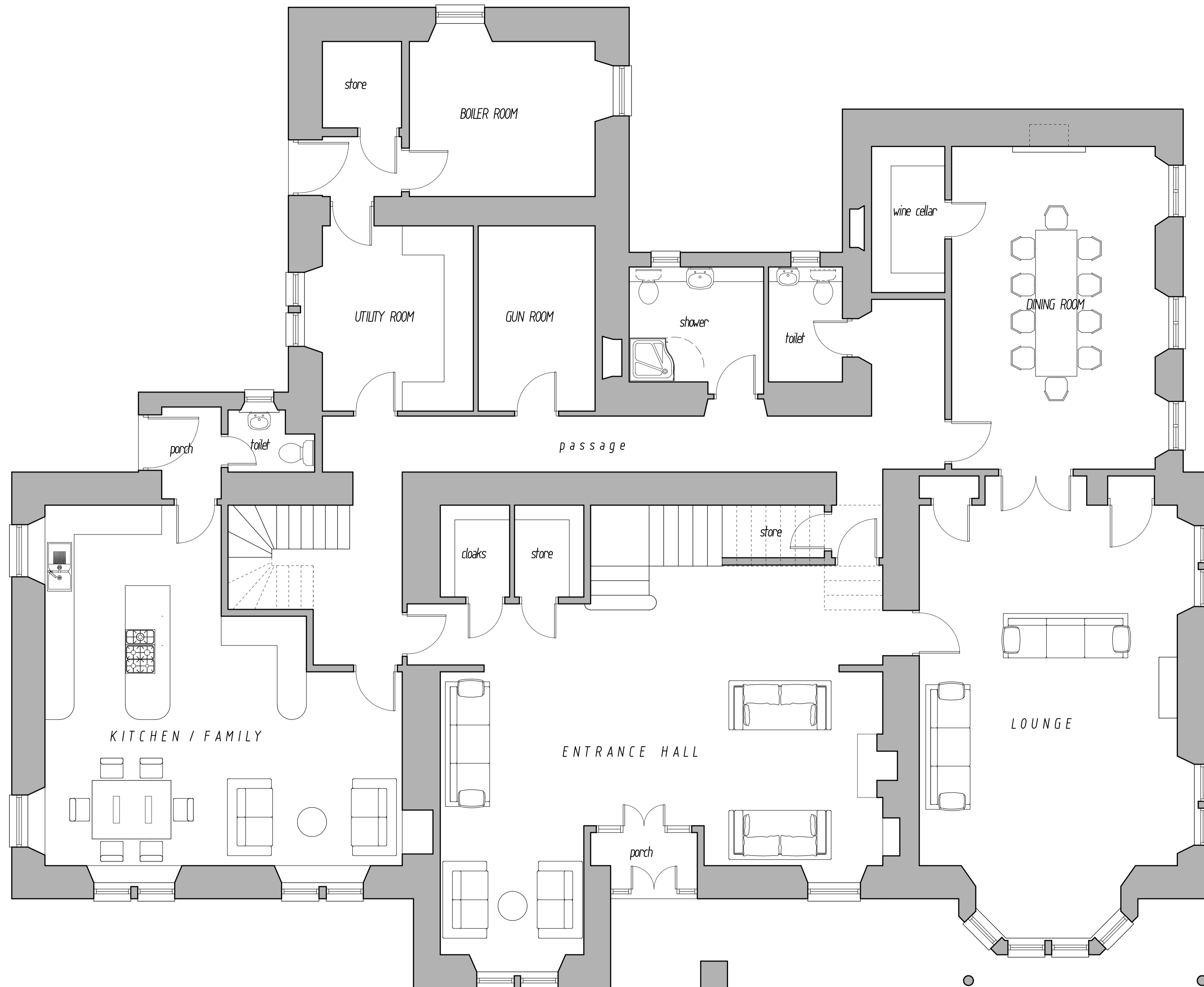
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 AS EXISTING -
 SECOND FLOOR PLAN

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GROUND FLOOR PLAN

TOTAL FLOOR AREA = 313.36 sq.m.

Note
The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

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PROPOSED DEVELOPMENT AT THE
FORMER TOMDOUN HOTEL, INVERGARRY

client
MR. R. C. TUXFORD

detail
AS PROPOSED -
GROUND FLOOR PLAN

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FIRST FLOOR PLAN

TOTAL FLOOR AREA = 276.36 sqm.

Note
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project
PROPOSED DEVELOPMENT AT THE
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detail
AS PROPOSED -
FIRST FLOOR PLAN

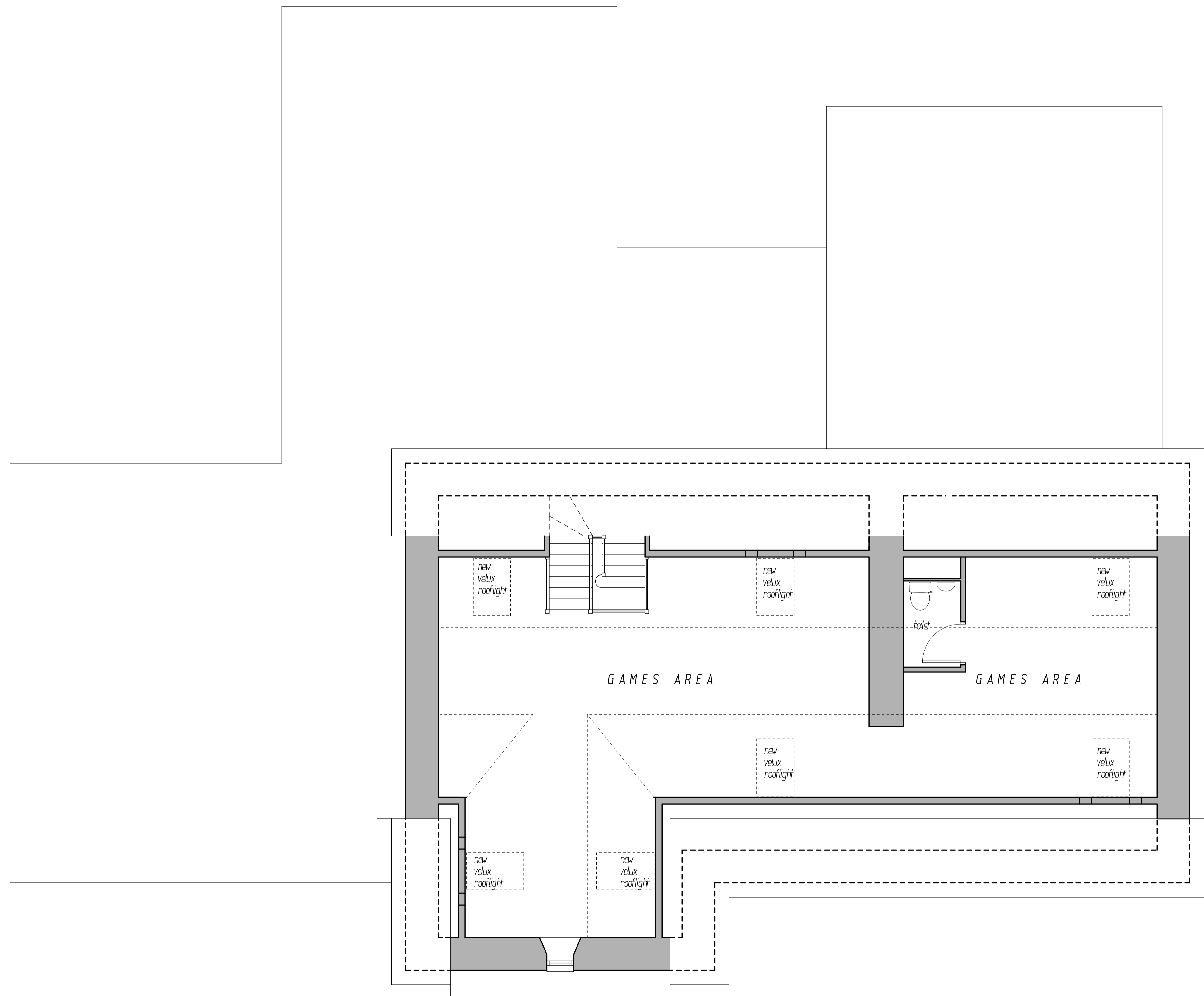
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SECOND FLOOR PLAN

TOTAL FLOOR AREA = 87.00 sqm.

Note
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PROPOSED DEVELOPMENT AT THE
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client
MR. R. C. TUXFORD

detail
AS PROPOSED -
SECOND FLOOR PLAN



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