

**THE HIGHLAND COUNCIL**

**NORTH PLANNING APPLICATION COMMITTEE  
16 DECEMBER 2014**

Agenda Item	6.6
Report No	PLN/090/14

**14/03218/FUL : Mr and Mrs M MacLennan  
Land 445m NE of 5 Kinbeachie Culbokie**

**SUMMARY**

**Description : Erection of House and Garage**

**Recommendation - REFUSE**

**Ward :10 - Black Isle**

**Development category : Local Development**

**Pre-determination hearing : None**

**Reason referred to Committee : Local Member Referral**

**1. PROPOSED DEVELOPMENT**

- 1.1 Planning permission is sought for the erection of a two storey dwellinghouse with detached double garage. The house has a footprint of 115m<sup>2</sup>, or thereby. The upper floor of the property is contained within the roof space with dormer windows provided light and additional head room. The property is located on the site with the principle elevation to the north west. This elevation is designed with a projecting two storey section centred in the middle of the frontage with the ridge running at right angles to the rest of the house. The exterior of the property is to be finished in a combination of wet dash roughcast, timber cladding and natural stone. Natural slate is proposed for the roof. The garage is designed with a double pitch roof and will be located immediately adjacent to the house. The external finish will match that of the house.
- 1.2 No pre-application submission was received immediately prior to the submission of the current application. A number of meetings have been held between the Planning Service and the applicant since 2011 regarding the proposed development. A previous application for a similar development lodged in 2012 was withdrawn by the applicant. At that time the Planning Service indicated that it was unable to support the development as it was considered not to accord with the development plan.
- 1.3 The site is serviced from a private farm track which runs the full length of the north western boundary.

- 1.4 The application is supported by an agricultural report. The contents of the report can be summarised as follows:
- The croft extends to 13.48 hectares
  - A new tenancy has been created by the owners of the croft Mr and Mrs Mackenzie for their daughter Mrs MacLennan to take over and work the croft
  - Mr and Mrs MacLennan live in Inverness and will continue with both of their current full time jobs.
  - Mr and Mrs Mackenzie are not of retirement age, Mr and Mrs MacLennan would improve the demographic of the Kinbeachie area where many are retired and over 75.
  - Most arable field work is carried out by contractors and Mr Mackenzie
  - Mr and Mrs MacLennan intend to keep cows and calves, sheep, pigs and piglets, horses, hens and make hay/silage and grow barley.
  - Those who keep livestock have a responsibility in ensuring the welfare of their animals, as well as their security.
  - The report suggests that the labour requirements for beef cows and horses are 12 hours and 150 hours per annum, respectively.
  - On average 1 labour unit is equivalent to 1900 hours/annum. The labour requirements for all of the proposed activities equate to 1964.6 hours/annum.
  - 0.1 hectares deducted from house site.

- 1.5 **Variations:** Amended plans submitted prior to application being registered as valid.

## 2. SITE DESCRIPTION

- 2.1 The site extends to 0.14 hectares and forms part of the field. 160 m approximately to the north east are a number of properties and buildings known as 7 Kinbeachie. A single house known as Cul A Mhuilinn lies 230 m, or thereby to the south east and 400m to the south west lies a group of buildings and houses known as 4 Kinbeachie.

## 3. PLANNING HISTORY

- 3.1 12/03096/FUL - Erection of house – Withdrawn.

This application was lodged by the same applicant. The application related to a site that lies approximately 200metres to the south west of the current proposed site.

## 4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour and potential departure to development plan  
Representation deadline : 31.10.14

Timeous representations : Two

Late representations : One

- 4.2 Material considerations raised are summarised as follows:

- Condition of the access track which currently serves 3 properties.

## 5. CONSULTATIONS

5.1 Agricultural Officer: Comments can be summarised as follows.

- As both Mr and Mrs Mackenzie and Mr and Mrs MacLennan all have and will continue to have full time jobs it is immaterial that the croft will create another full time labour requirement.
- The security of the holding and needs relating to livestock husbandry are already met by Mr and Mrs MacKenzie. Nothing will be added by the relocation of the applicants as all parties will be away during the day due to their full time jobs.
- According to SAC Handbook ' Standard Labour requirements beef cows require 12 hours per annum and horses 150 hours per annum; yet these are given 18 and 180, respectively in the Operational Needs report.
- The hours allocated to the horses are for grass livery; it is not uncommon for the livery to be completely let out and therefore require very little input. There is no information to suggest this, however this is important as the labour requirement given for the horses equates to over one third (37%) of the total hours required per annum.
- If all the animals are kept outdoors, and given the 3 hectares for spring barely could be difficult to carry out all of these activities and the unit could quickly become overworked. Over all the proposed combination of activities and stocking may place too many demands on a relatively small area.
- On the basis of the information provided there is insufficient evidence to suggest that expansion of the agricultural activities would require additional residency
- Whilst it would be highly desirable for the applicants to reside on the croft it is not necessary in order to meet the operational needs; and the labour requirements is realistically likely to be lower than 1 labour unit.

5.2 Crofting Commission: General policy to promote and protect the sustainability of crofting applies having regard to the impact the proposal will have on the croft. They will assess the proposal in detail at the de-crofting stage.

5.3 Scottish Water: Response not received timeously.

## 6. DEVELOPMENT PLAN

The following policies are relevant to the assessment of the application

### 6.1 Highland-Wide Local Development Plan 2012

Policy 28 Sustainable Development

Policy 34 Housing in the countryside ( Hinterland)

### 6.2 Ross and Cromarty East Local Plan 2007

GSP10 Hinterland Boundary

7. Inner Moray Firth Local proposed Development Plan

**Hinterland Boundary**

**OTHER MATERIAL CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance**

Housing in the countryside siting and design.

7.2 **Scottish Government Planning Policy and Guidance**

SPP

**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**

8.4 The key policies of the Highland wide Local Development Plan which apply to the assessment of this application are Policy 35 which relates to housing in the countryside (Hinterland areas) and Policy 28 sustainable design. In assessing each application against the relevant policies it must be stressed that conformity with a single policy does not necessarily indicate that a proposed development is acceptable.

8.5 Policy 28 of the HwLDP aims to ensure that development is sustainable and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal state that proposals should be assessed on the extent to which they “demonstrate sensitive siting and high quality design in keeping with local character and are compatible with service provision”.

8.6 In the context of policy 28, only it is considered that the siting and design of the house proposed is acceptable. The location of the site is such that the house would initially appear as a fairly prominent new feature in the landscape given that the site is surrounded by open farm land. However the site lies at a lower level than the land to the north west and the south east from where the majority of public views would be available. As a consequence the setting of the house will not dominate views and with appropriate landscaping it will not detract from the overall landscape character. The design is considered to be of an acceptable quality and appropriate for this countryside location.

8.7 It is considered that the proposal to use the existing access track is acceptable. The junction with the public road has good visibility in both directions. At a set back of 2.4m there is clear visibility in both directions for over 200metres. Traffic speeds

are considered to be in the region of 50pm h. The first section of the driveway requires to be surfaced in line with current road guidelines and bins storage and a service layby will be required.

- 8.8 Comment has been made by third parties regarding the condition of the track. Given that the track is in private ownership it will be the responsibility of the developer to secure the landowners permission to carry out improvements. With respect to the granting of the planning permission improvements are only required to the first section of the track as described above. Such matters would be the subject of suspensive conditions of any approval of planning permission. Any other improvements that the developer may wish to carry out to the access track are therefore not subject to scrutiny under the determination of the application.
- 8.9 No servicing issues have been brought to attention through the consultation process. A formal response from Scottish Water has not been timeously received. A connection to the public water supply will require a separate permission from Scottish Water. A private foul drainage system will be required. It is considered that there is sufficient room within the site and also land within the applicants control to provide a suitable system.
- 8.10 It must be noted that compliance with the relevant criteria set out in policy 28 does not outweigh the need for the proposals to demonstrate compliance with the terms of policy 35.
- 8.11 Policy 35 of the Highland wide Local Development Plan presumes against single houses in the open countryside of the hinterland area. The supplementary guidance: Housing in the countryside and siting and design allows for the following exceptions:
- Housing groups( consolidation and rounding off).
  - Conversion, rehabilitation or replacement of redundant buildings and the development of brownfield land.
  - Garden ground. ( sub division of)
  - Agricultural land management needs.
  - Other rural business needs.
- 8.12 Of the exemptions listed in the supplementary guidance only one is of relevance to the determination of this application. It is put forward by the applicants that a further full time presence is required to manage the croft for which they have the tenancy.
- 8.13 With respect to the other exceptions, the site is not considered to form part of a housing group, as the properties at 7 Kinbeachie lie a significant distance from the site and there are open fields between the site and these existing houses. The site is not garden ground and neither could it be considered development of a brownfield.

- 8.14 Within the hinterland, as defined in the development plan, there is no exception for houses specifically associated to individual crofts. Houses on individual crofts, as proposed by this application, require to be considered under the exception for agricultural land management needs, as set out in the supplementary guidance.
- 8.15 The supplementary guidance details that applicants must provide the following information:
- Description of the current farm enterprise (where applicable) including: extent, operations, infrastructure and existing labour;
  - Description of the proposed changes to the farm enterprise including extent, operations, infrastructure and existing labour;
  - Information on how the proposed changes are to be funded, including evidence on how the proposed development is financially viable and sustainable;
  - Information about who is to live in the house and where they reside now;
  - Evidence of why it is necessary to the business that accommodation is actually needed on site.
- 8.16 Justification for whether a proposal can be supported under the exception for agricultural land management needs will be judged against the information provided by the applicant in support of operational need.
- 8.17 The terms of Policy 35 of the adopted Highland wide Local Development Plan and the adopted supplementary guidance, referred to above where set out taking into account The Crofting Reform (Scotland) Bill 2010 regulation on croft occupancy specifically with respect to two matters. Firstly, the fact that the regulation ensures that all tenant or owner occupied crofters must ordinarily reside within 32km of the croft, thereby not requiring a person to live on a croft and secondly, the matter that, when registering a croft the Crofting Commission is not taking into account the working or economic viability of the croft. This latter issue allows for new crofts to be registered for any land parcel, no matter how small.
- 8.18 A detailed assessment of the operational needs report has been undertaken in consultation with the Agricultural Officer. The conclusion of this assessment is that whilst it may be highly desirable for the applicants to live on site there is not sufficient justification in terms of land management need for a further full time presence.
- 8.19 The applicants have indicated that neither is to give up their full time jobs. The financial viability of the croft does not therefore depend on a full time presence. In addition it has not been demonstrated that it is necessary for the business that the applicants require accommodation on the croft. The operational needs assessment clearly states that the owners of the croft reside in a house beside the croft and will continue to work the croft. It is also noted that the applicants live within 32km of the croft..
- 8.20 It is also concluded that the manner in which the croft is to be managed does not require a full time labour. It is considered that the hours attributed to the various activities included in the operational needs report are overstated when compared against national standards for labour requirements. In terms of livestock welfare

and security of the holding these are met by the current owners of the croft, Mr and Mrs MacKenzie as they have a full time presence. Nothing will be added by the relocation of the applicants as all parties will be away during the day due to their full time jobs and the owners, Mr and Mrs MacKenzie, are already present at other times.

8.21 It is acknowledged that there will be some small advantages gained to managing the land by the tenants being onsite, for example by the reduction in time spent traveling between their existing house in Inverness and the site. It cannot however be concluded that necessity has been demonstrated. Without there being an exceptional need, as clearly set out in the supplementary guidance, for a new house the proposal does not accord with the terms of Policy 35 of the Highland wide Local Development Plan, nor any of the exceptions to this policy as set out in the adopted supplementary planning guidance.

8.22 Finally, it should be noted that the Agricultural officer has questioned the demands that would be placed on the landholding as a result of the number and combination of activities, which in their opinion will result in what is a relatively small area of land becoming quickly overworked. Similar comments were received from the Agricultural officer with respect to the previous applicant that was subsequently withdrawn.

8.23 **Other Considerations – not material**

8.24 A late representation was received from a third party who is the crofting commission area assessor for Ross-shire. The views expressed in the letter cannot be attributed to the Crofting Commission, who were formally consulted on the proposals and offered a neutral comment.

8.25 The views expressed are therefore those of an individual. They comment on the ageing demographic of the crofting community, the need for younger crofters and therefore the suitability of the applicants to encourage more young families to take up crofting.

8.26 **Matters to be secured by Section 75 Agreement**

8.27 **None**

**9. CONCLUSION**

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

It is recommended that permission be refused.

## 10. RECOMMENDATION

### Action required before decision issued N

**Subject to the above**, it is recommended the application be **REFUSED** for the following reasons:

1. The site lies within the hinterland as identified in the Highland wide Local Development Plan and the Ross and Cromarty East Local Plan (as remains in force). Within the hinterland the Council operates a restrictive policy where there is a presumption against new housing in the open countryside. Adopted supplementary planning guidance allows for a relaxation of the policy when the development is considered to consolidate/round-off a housing group in a suitable manner or fall within one of the exceptions identified in the supplementary guidance. The site does not form part of a housing group and none of the other exceptions apply. Specifically, it is not essential that a house is required on site to manage the croft known 7 Kinbeachie as described in the Operational Needs Assessment dated October 2014. The principal of constructing a house on the site is considered contrary to Policy 35 of the Highland wide Local Development Plan and the Supplementary Guidance; Housing in the Countryside and Siting and Design
2. The proposals if approved would establish a precedent for developments of a similar nature, this would undermine and weaken approved and proposed Council policy and guidance within the defined hinterland the aims of which are to prevent the suburbanisation of the countryside.

Signature: Dafydd Jones

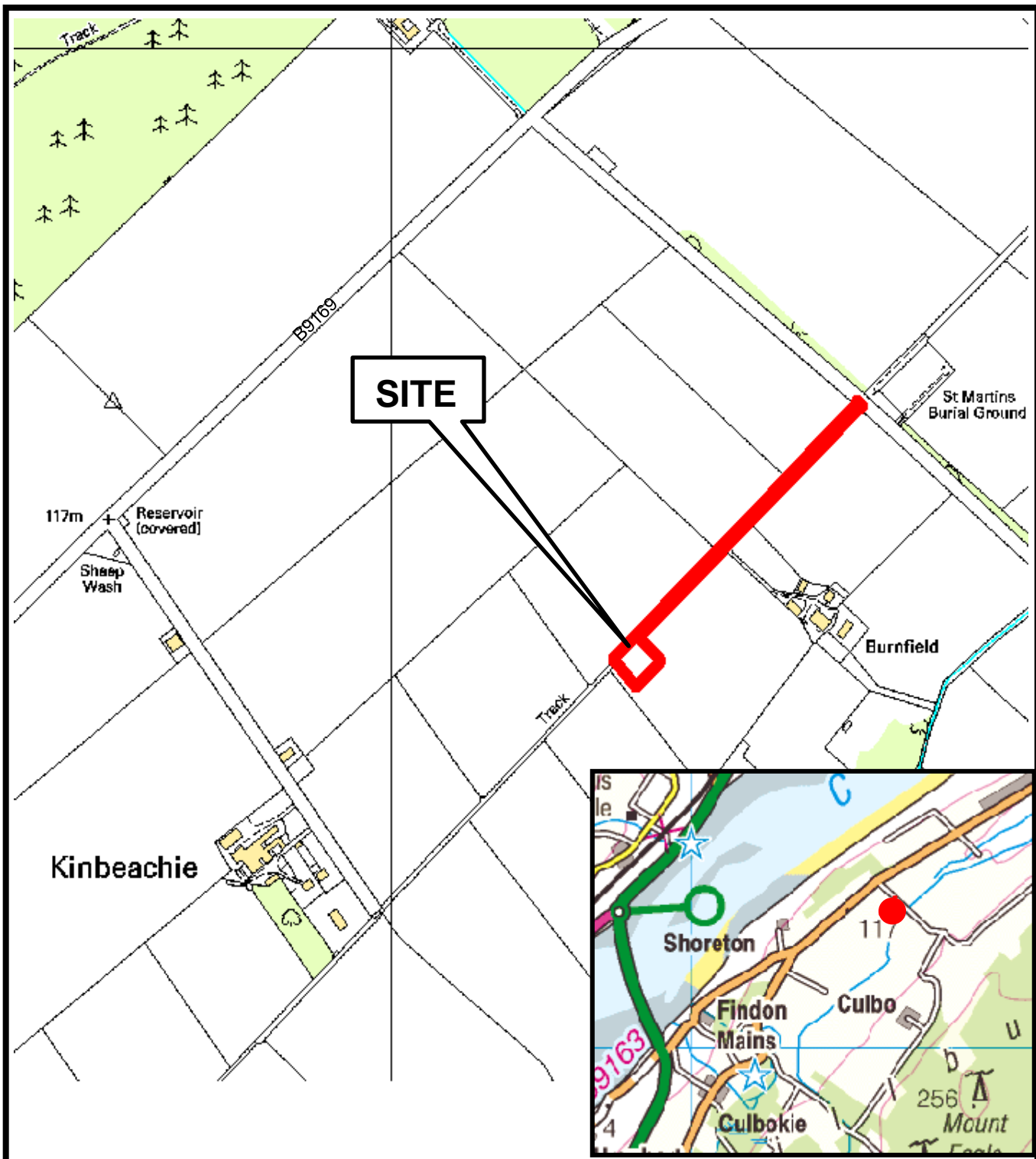
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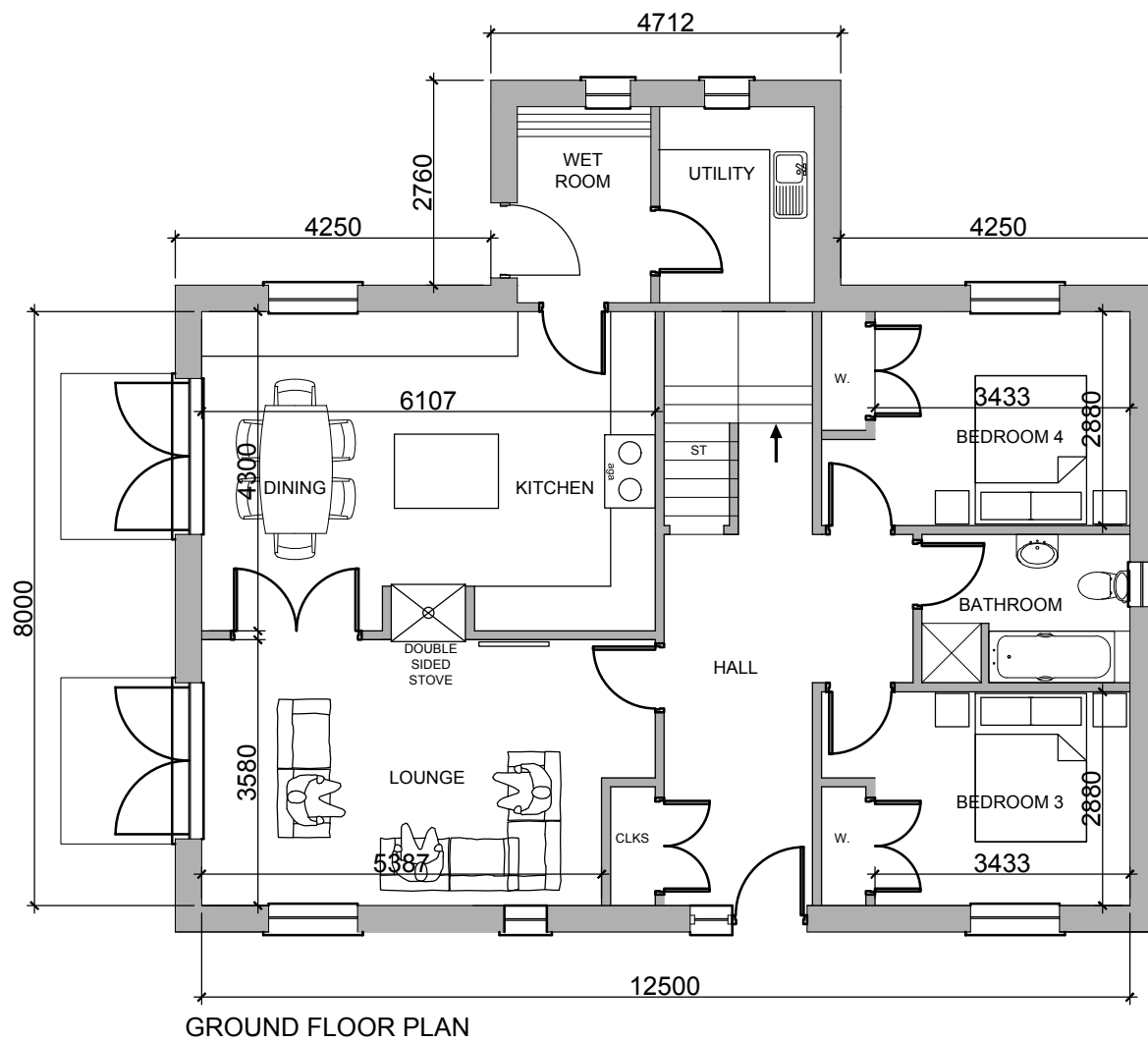
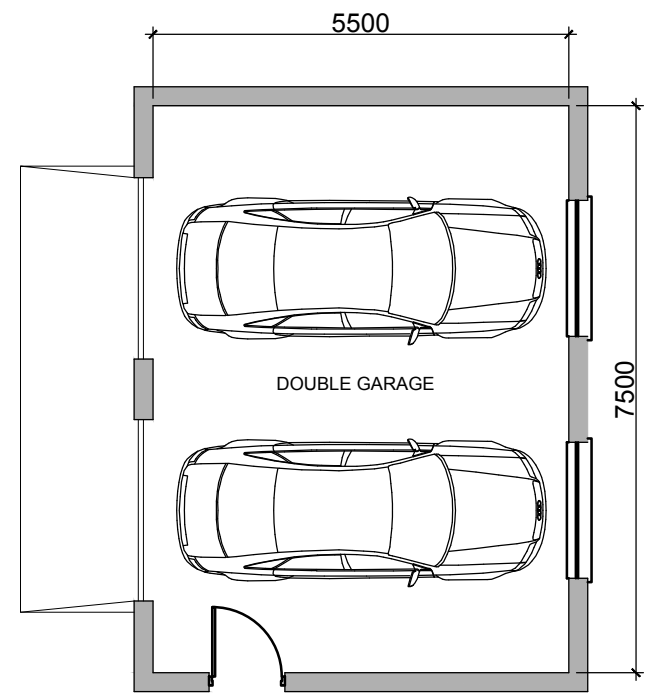
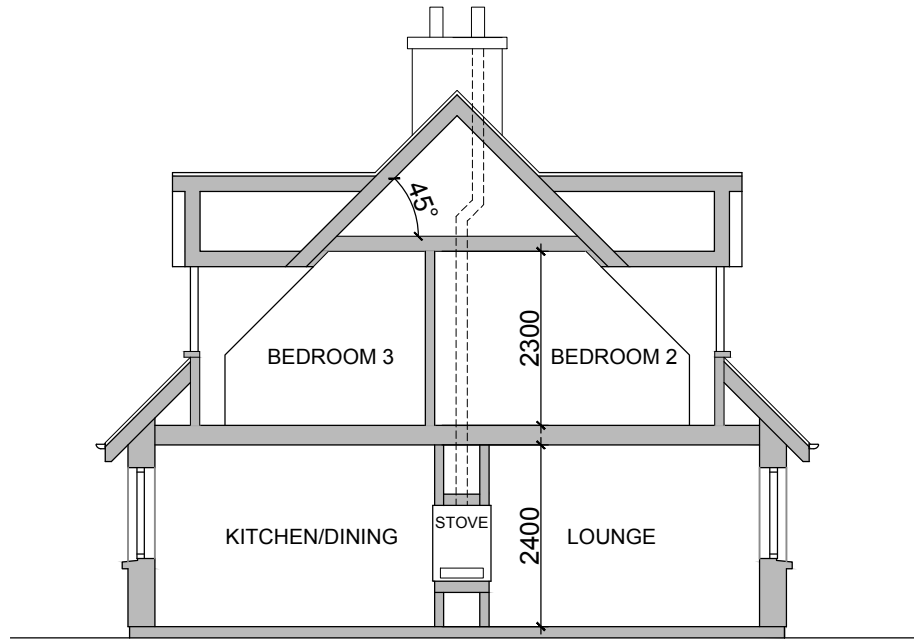
Author: Erica McArthur

Background Papers: Documents referred to in report and in case file.

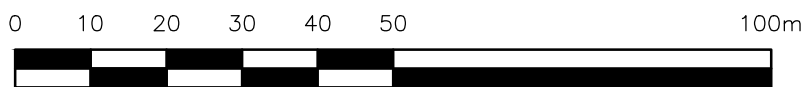
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Elevations House  
Plan 3 – Elevations Garage  
Plan 4 – Croft Boundaries





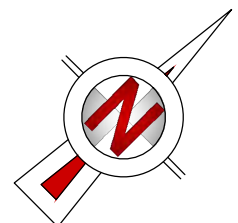


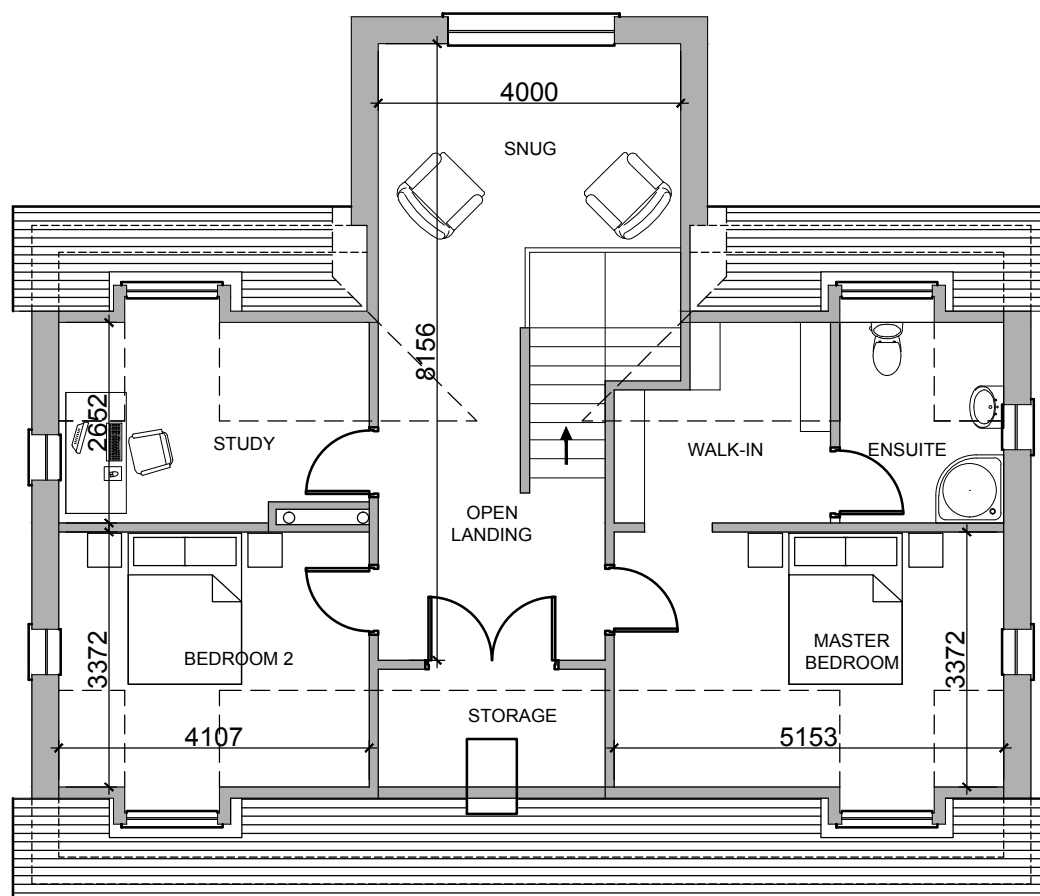
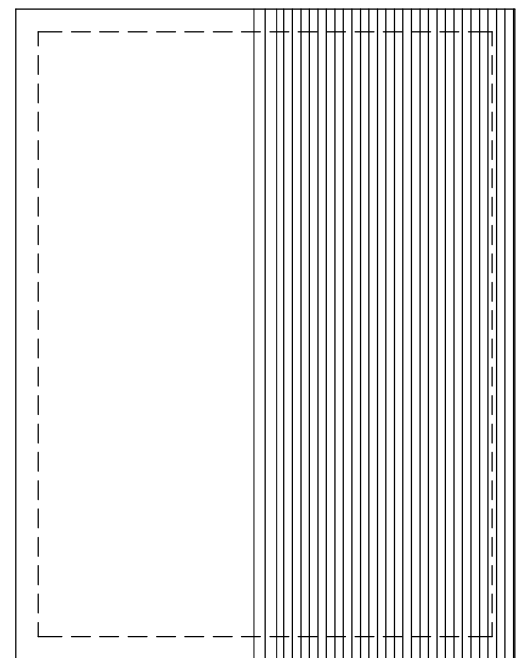
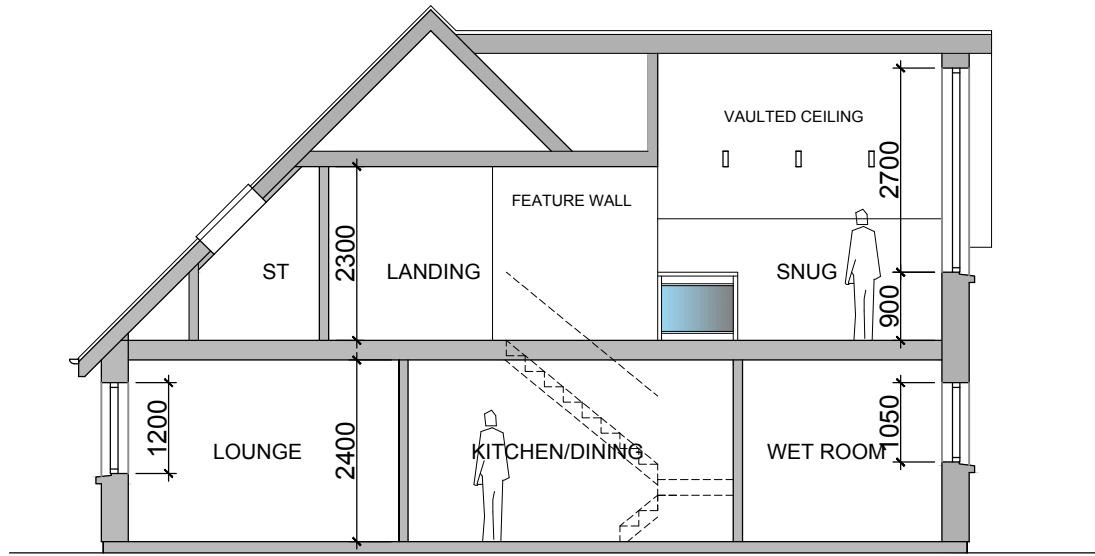
GROUND FLOOR PLAN



REV A: MINOR ALTS TO SUIT PLANNING RESPONSE : 30.08.14

Client Mr & Mrs. M. MacLennan	Drawing title <b>GROUND FLOOR PLAN/SECTION</b>			<h1>PLANNING</h1>
Project Proposed Private Dwelling House Kinbeachie, Culbokie IV7 8LS.	Scale 1:100@A3	Date AUG'14	Revision A	
	Drwg No. P100	Job No. MM-02	Drawn .	



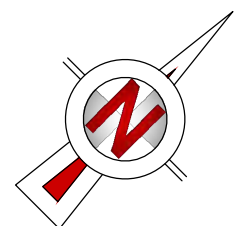


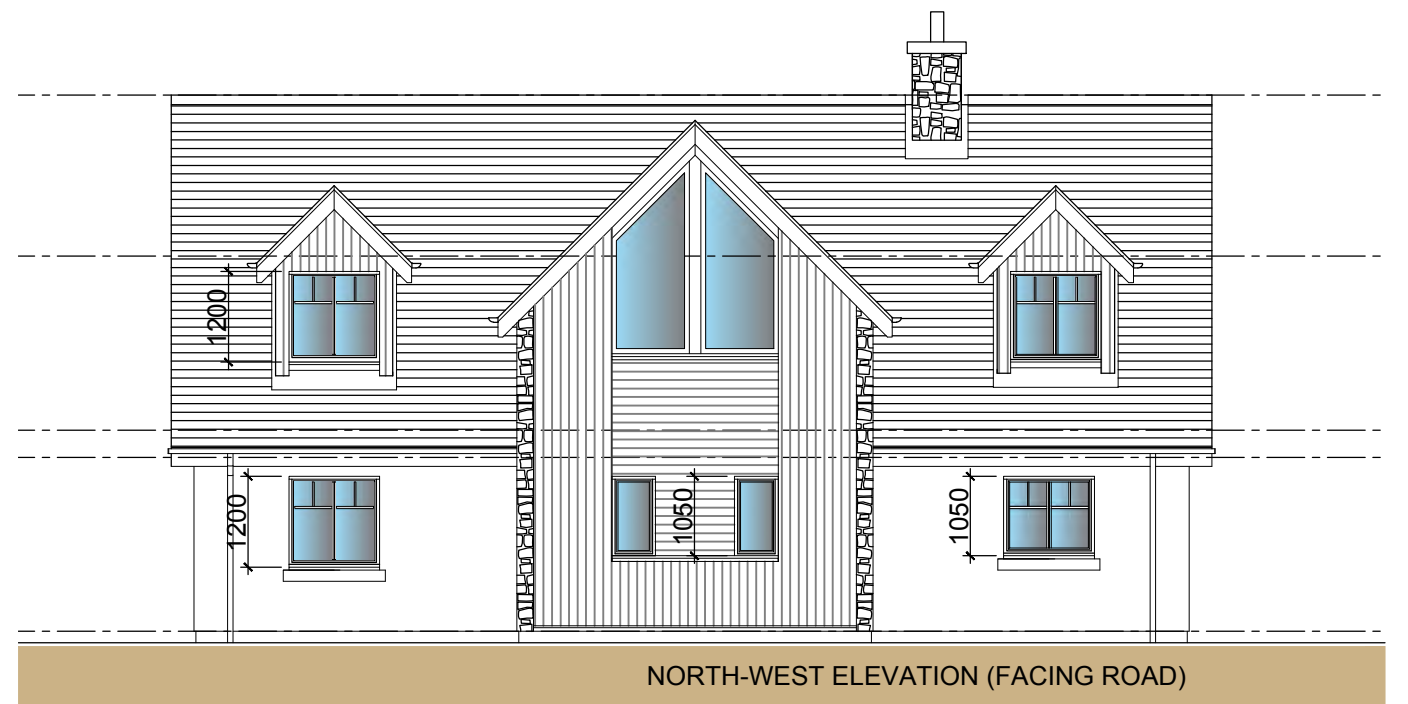
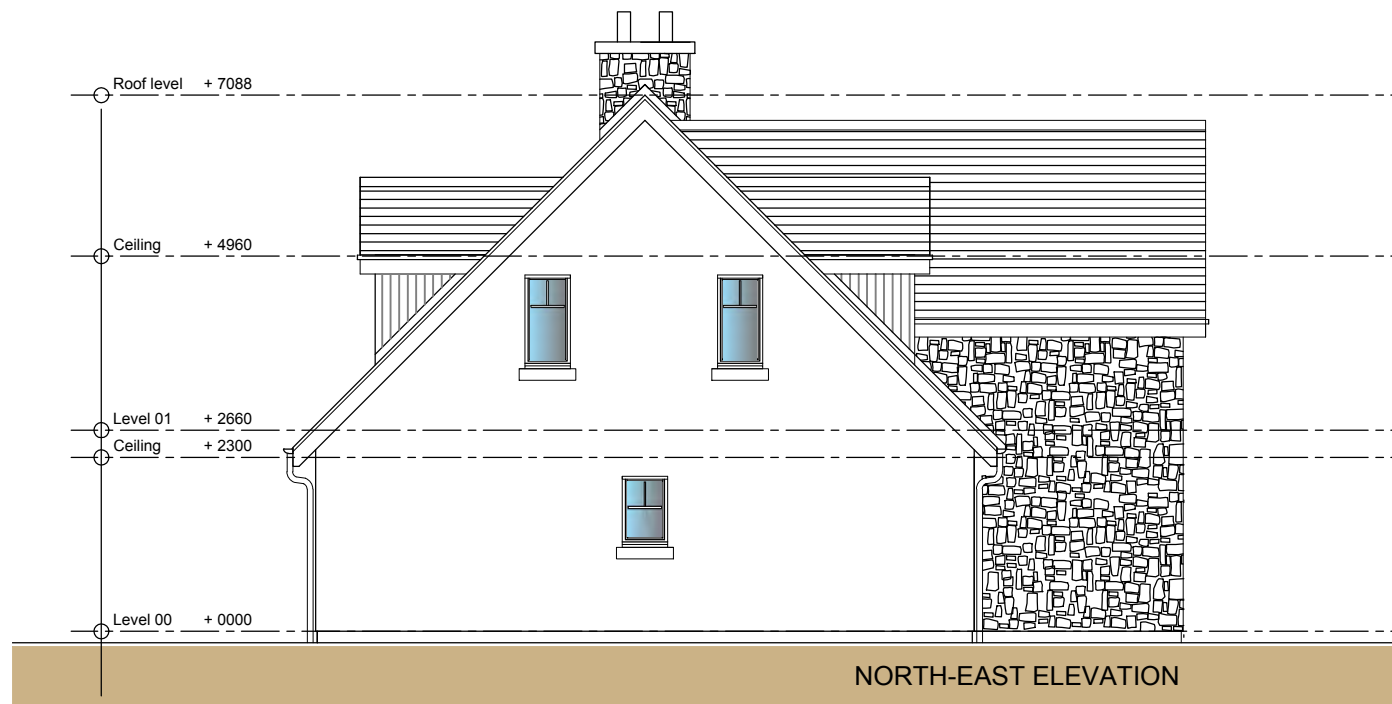
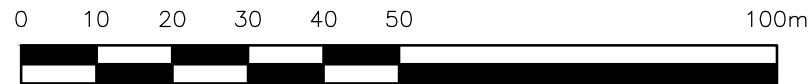
FIRST FLOOR PLAN



REV A: MINOR ALTS TO SUIT PLANNING RESPONSE : 30.08.14

Client Mr & Mrs. M. MacLennan	Drawing title <b>FIRST FLOOR PLAN/SECTION</b>			<b>PLANNING</b>
Project Proposed Private Dwelling House Kinbeachie, Culbokie IV7 8LS.	Scale 1:100@A3	Date AUG'14	Revision A	
	Drwg No. P101	Job No. MM-02	Drawn .	



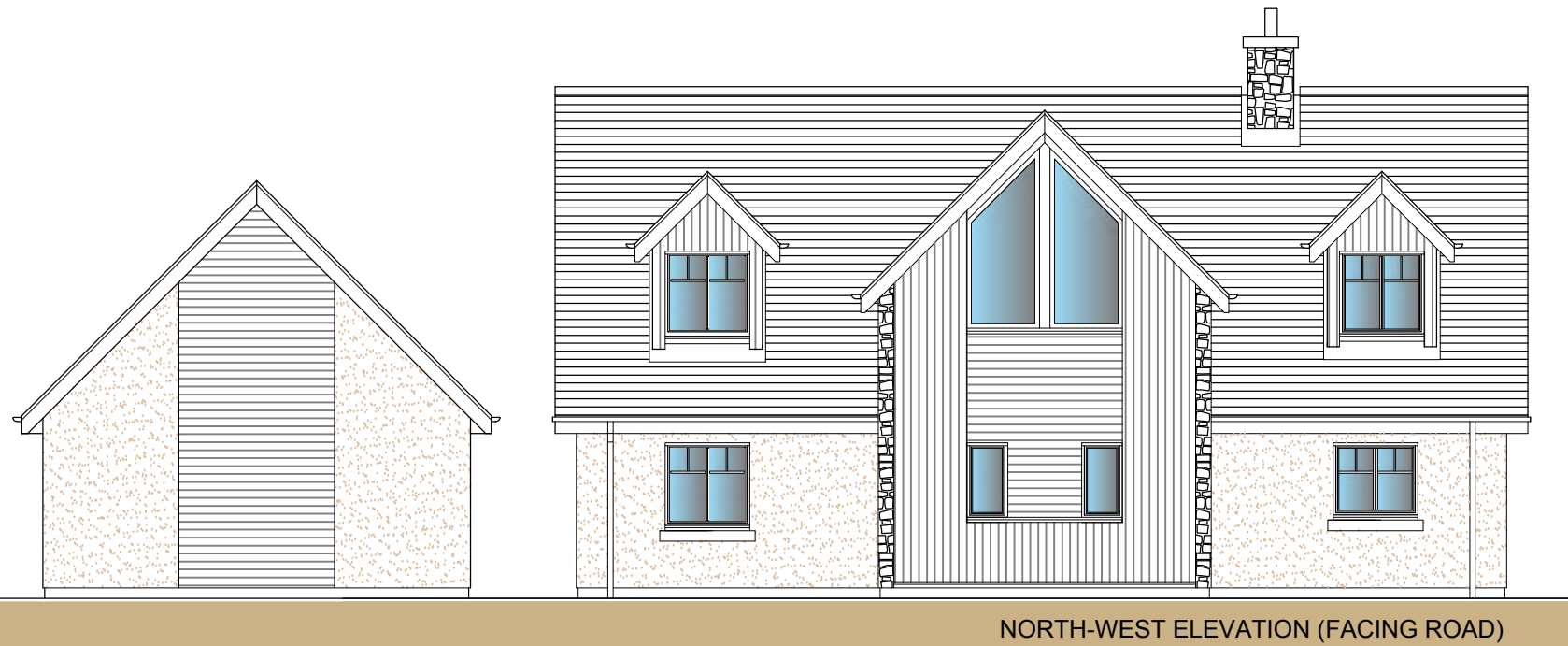


REV A: MINOR ALTS TO SUIT PLANNING RESPONSE : 30.08.14  
 REV B: TEXT AMENDED TO SUIT ORIENTATION : 02.12.14

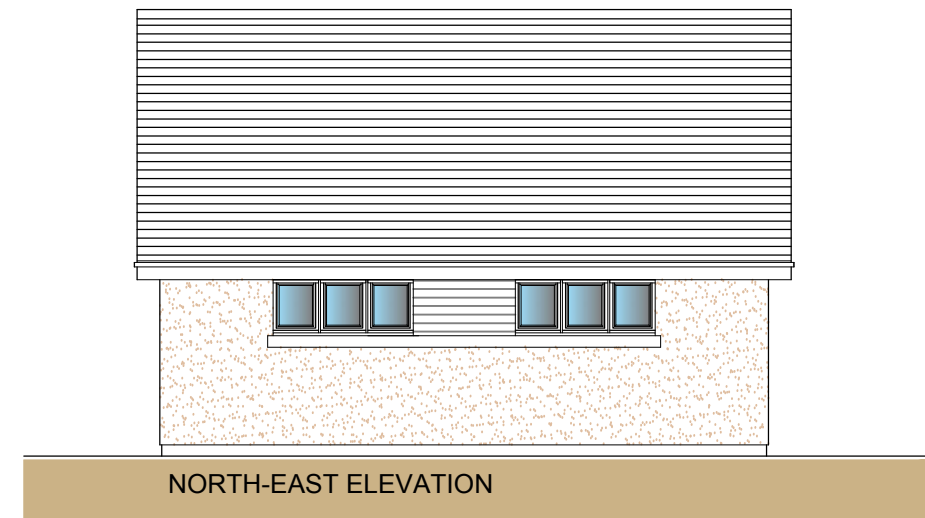
Client Mr & Mrs. M. Maclellan	Drawing title <b>ELEVATIONS</b>			<h1>PLANNING</h1>
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**EXTERNAL FINISHES:**

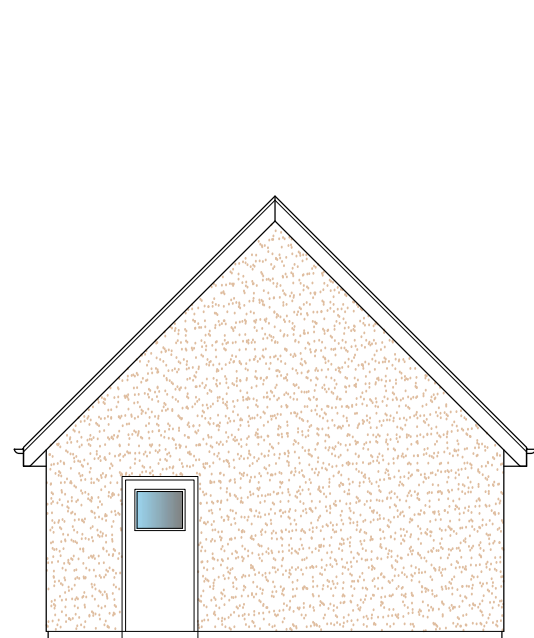
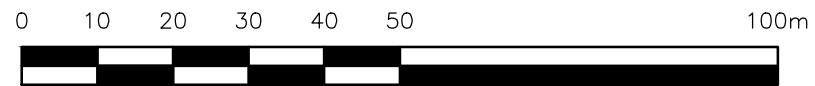
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- ROOF: NATURAL SLATE 8mm MIN THICKNESS, LAPPED FOR EXPOSURE.
- WINDOWS/DOORS: REDWOOD, LIGHT OAK COLOUR, FACTORY FINISHED, DOUBLE GLAZED UNITS.
- FASCIA/BARGEBOARD/SOFFIT: LIGHT OAK COLOUR
- GUTTERS + DOWNPIPES: uPVC BLACK.



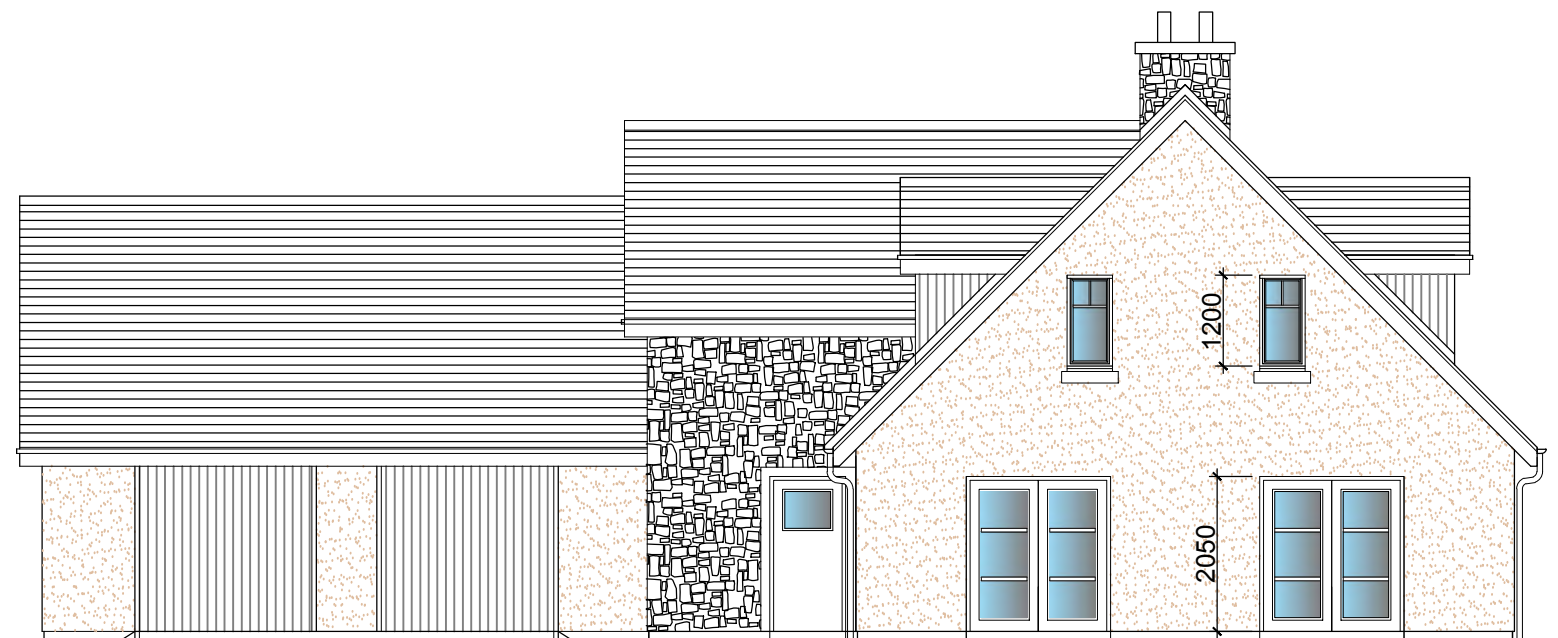
NORTH-WEST ELEVATION (FACING ROAD)



NORTH-EAST ELEVATION



SOUTH-EAST ELEVATION



SOUTH-WEST ELEVATION

REV A: MINOR ALTS TO SUIT PLANNING RESPONSE : 30.08.14  
 REV B: TEXT AMENDED TO SUIT ORIENTATION : 02.12.14

Client Mr & Mrs. M. MacLennan	Drawing title <b>GARAGE ELEVATIONS</b>			<h1>PLANNING</h1>
	Project Proposed Private Dwelling House Kinbeachie, Culbokie IV7 8LS.	Scale 1:100@A3	Date AUG'14	
	Drwg No. P103	Job No. MM-02	Drawn .	

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