

**THE HIGHLAND COUNCIL**

**PLANNING APPLICATIONS COMMITTEE  
12 January 2017**

Agenda Item	5.3
Report No	PLN/004/17

**16/03852/FUL: Mr and Mrs Stuart  
Land 50M SE of 21 Urquhart Road, Dingwall**

**Report by Area Planning Manager**

**SUMMARY**

**Description : Erection of house with self contained residential unit.**

**Recommendation: - GRANT**

**Ward : 09 - Dingwall And Seaforth**

**Development category : Local Development**

**Pre-determination hearing : Not required**

**Reason referred to Committee : More than 5 objections.**

**1. PROPOSED DEVELOPMENT**

- 1.1 The application seeks detailed consent for a house with a self contained residential unit. The site slopes from west to east which has resulted in a split level property. From the street the development shall have the appearance of a single storey dwelling. The rear two storey elevation faces towards Craig Wood to the south-east, and has large windows to maximise the level of natural light entering the building. A new access is to be formed onto Urquhart Road and a parking and turning area for 4 cars is to be located at the northern corner of the site.
- 1.2 Pre-application advice was given advising that a house could conceivably be supported subject to the retention of an open and attractive footpath link.
- 1.3 A design statement was submitted in support of the application.
- 1.4 In support of the proposal the applicants have set out the circumstances relating to their daughter for this house and annexe which will allow her a degree of semi independence, whilst being close enough to her family to allow on hand support and accommodation for a carer if required.

**2. SITE DESCRIPTION**

- 2.1 The site is bounded by Urquhart Road on the north-west boundary and Craig Wood on the south-east. Neighbouring properties are situated to the north-east and south-west. The site slopes from Urquhart Road down to Craig Wood. There are large shrubs and trees at the edges and interior of the site. A footpath link from Urquhart Road to Craig Wood is situated adjacent to the site to the north-east.

There is currently an area of maintained grass between the footpath and proposed site.

### **3. PLANNING HISTORY**

- 3.1 04/00968/FULRC – Erection of house – Refused March 2005 on grounds of loss of open amenity land, adverse impact on community amenity and setting a precedent.

### **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown Neighbour  
Representation deadline : 16.09.2016

Timeous representations : 7

- 4.2 Material considerations raised in objection to the development are summarised as follows:

- Proposal appears to be 2 flats and is not reflective of the settlement pattern of detached houses.
- Site is amenity space and should be retained as such.
- Difficulties in maintaining the area should not justify its development.
- Planting and fencing conditions of the original planning consent have never been undertaken.
- Road safety concerns with the proposed access relative to the existing road network.
- Reduction of the area and path leading to the woods will have an adverse effect on the amenity of the area.
- Landowners already moved the path so that it is far steeper than it was, making it less accessible.
- Proposal is in contravention of policy 28 Sustainable Design as it impacts upon community residential amenity and policy 34 Settlement Development Areas as the 2 flats are not in keeping with the current development consisting of family homes.
- Siting of the house will adversely impact on privacy of adjoining properties.
- Address for the development, land 50m south-east of 21 Urquhart Road, is incorrect and deceptive.
- Some residents have advised they would not have purchased their properties had they known this site might be developed.
- Provision of two flats will reduce the value of adjoining properties.
- Dumping has occurred on the land in the past on what is made up ground

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

- 5.1 **Access Officer** : There is insufficient space to improve the gradient of the path, thus it is to the detriment of any person with mobility issues. The only possible gradient improvement is to cut the northern corner of the house site to link the path closer to the existing dropped kerb which would make a small accessibility improvement.
- 5.2 **Transport Planning** : No objection – standard roads related conditions should be attached.
- 5.3 **Forestry Officer** : Objection withdrawn - having reviewed the information submitted and the site, as the trees are protected and the woodland has equal separation with adjoining houses.

## 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
- 34 Settlement Development Areas
- 75 Open Space

### 6.2 Inner Moray Firth Local Development Plan

Within Settlement Development Area for Dingwall

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

Not applicable

### 7.2 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)  
Sustainable Design Guide (Jan 2013)

### 7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, June 2014)

## 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 site was originally approved as an area of amenity space as part of the original planning permission for the housing in this area (RC/1989/1098). A house was previously refused on this site nearly 12 years ago on the grounds that it was amenity ground providing an open entrance to Craig Wood, adverse impact on community amenity and the development would set a precedent. In the intervening period there have been several material changes in circumstances and it is necessary to consider this proposal within this revised policy context.

- 8.3.1 Since the previous application was considered almost twelve years ago the previous policy framework has been replaced by the Inner Moray Firth Local Development Plan and the Highland Wide Local Development Plan (HWLDP). Amenity spaces are a valuable part of the built environment and can play a significant role as a community asset and in creating a sense of place. This amenity space and others within this development are not identified as open space in the Local Development Plan. However, policy 75 of the Highland-wide Local Development Plan seeks to safeguard high quality, fit for purpose open space; it also highlights and promotes the creation of networks of open space and which are accessible.
- 8.3.2 The amenity space in which the development is proposed has not been well maintained and currently does not offer the community an attractive, useable, fit for purpose amenity space. However, the open footpath link to Craig Wood is an asset to the area. At present the portion of land providing the footpath link and the larger overgrown area to the south-west do not share a cohesive relationship and appear as two separate areas of land, one a footpath and the other an area of overgrown vegetation adjacent to the footpath. The overgrown area offers little in terms of setting for the footpath and does not currently make a positive contribution to the visual amenity of the area. The area is likely to continue to have a negative impact visually upon the area due to the vegetation growth and topography, which is difficult to maintain. There are other amenity spaces in the area such as the play park to the west in Balnabeen Drive some 130 m to the south west and linear green space to the north. The play area in Balnabeen Drive has recently been upgraded with new play equipment in the last few years. The woodland belt to the south also offers local residents a substantial and important natural amenity resource which is safeguarded by a Tree Preservation Order.
- 8.3.3 The application includes the retention of a 10 metre wide amenity strip, through which the existing footpath shall run. The retained amenity strip is wide enough to avoid a feeling of enclosure that may discourage the community from using the footpath. It importantly safeguards the retention of the access link for a network of connectivity to open spaces and areas of amenity such as the woodland and accords with the provisions of policy 75 of the HWLDP.
- 8.3.4 The proposal is consistent with the pattern of development on Urquhart Road. The plot size, layout and orientation of the property are consistent with neighbouring properties. Development in the area has had to respond to the sloping topography and the split level design of the proposal shall not appear as out of character with the local area.

8.3.5 A house has previously been refused planning permission on this site 04/00968/FULRC. A more recent application for two flats was withdrawn as it was considered that this pattern of development was out of keeping with the area characterised by large detached houses. In response the applicants have outlined their circumstances more clearly advising that the accommodation is sought for their daughter and will enable care provision to be provided if required in the future in an annexe within the house. It is important to ensure and stress that the application is assessed in this instance as being a house with an integral annexe as opposed to two flats. Any proposal to sub divide or create a separate self contained residential unit would require planning permission and would not be supported.

8.3.6 While the planning history of a site is a material consideration, this assessment has to be based on current planning policy and, on balance, the previous refusal is not considered to justify refusal of this proposal. The policy framework has evolved. It is not considered that the development will impact negatively upon individual or community residential amenity to a significant degree. It safeguards access to the woodland and an equipped play area is readily accessible. Together these offer far greater amenity value than this area of open ground. Furthermore, the proposal demonstrates sensitive siting and design in keeping with local character. The development is therefor considered to accord with policies 28 (sustainable Design) and 34 (Settlement Development Areas) of the Highland-wide Local Development Plan. The proposal is also considered to accord with policy 75 (Open Space) of the Highland-wide Local Development Plan as the site is not considered to be a high quality, accessible and fit for purpose open space.

#### 8.4 **Material Considerations**

The development, being split level, has been designed to take account of the existing topography of the site and to avoid excessive excavation and infill. It will have the appearance of a single storey property when viewed from the street. The lower ground floor results in the development having a two storey appearance from the rear. There is a large amount of glazing on the rear elevation to allow as much natural light into the building as possible. There are a mix of different modern suburban housing designs in the area, including single storey, split level and two storey dwellings. The proposal is considered to be sympathetic to the character and appearance of the area and the orientation and front and rear building lines are consistent with the neighbouring properties. The submission has been amended to address concerns previously raised in relation to overlooking to number 37 Urquhart Road, and all first floor windows on the elevation facing towards this property have been removed.

8.4.1 Transport Planning were consulted regarding the access and parking arrangements and have not raised any objections. The location of the parking area was amended in response to comments made to the earlier application in order to achieve an acceptable gradient. No objections were raised subject to conditions.

8.4.2 The Council's Forestry Officer had objected to the development on the grounds that it would result in future pressure to remove or cut back the trees adjacent to the south-east boundary of the site, which are part of the Craig Wood Tree Preservation Order. The objection was subsequently withdrawn as the trees are protected and the woodland has equal separation with adjoining houses

8.4.3 The access officer has highlighted concerns over the gradient of the amended access path as shown and suggested a possible amendment which can be conditioned to reduce the gradient.

## 8.5 **Other Considerations – not material**

The issue of the address given to the site was raised in a representation on the basis that the description 'land 50m south-east of 21 Urquhart Road' was incorrect and deceptive. It is standard practice and in accordance with the Council's protocol to use a neighbouring property as a reference point when a site does not have an address of its own. The 50 metre distance is approximately from the centre point of each site. The application includes a location plan, which allows members of the public to precisely locate the site.

## 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

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

1. The development hereby approved is for a house and annexe only (to remain as one planning unit) as detailed in drawing "PL10" and shall be fully constructed in accordance with the approved plans. For the avoidance of doubt the annexe on the first floor, shall be used for purposes incidental and ancillary to the enjoyment of the house hereby approved and shall not be sold off or let out as a principal private residence or be occupied separately by any family, group or individual.

**Reason** : To ensure that the annexe does not become used for permanent residential occupation in the interests of safeguarding the area's established amenity, in recognition of the lack of private amenity and parking space and in accordance with the use applied for

2. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

**Reason** : To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.

3. No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 16.12.2016), with the junction formed to comply drawing ref. SDB3.

**Reason** : To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

4. Prior to the first occupation of the development hereby approved, the car parking arrangements for the house and annexe, as detailed on approved plan ref. PL01 , shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

**Reason** : To ensure that an adequate level of parking is timeously provided for the development; in the interests of road safety and amenity.

5. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
- iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
- v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason** : In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

6. No development shall commence until the footprint of the house and annexe and driveway have been pegged out on site with measurements set out from fixed and identified reference points. Development shall only commence once these pegged out positions have been approved in writing by the Planning Authority and shall be completed in accordance with the approved position.

**Reason :** Due to the sloping topography of the site and to ensure that the development accords with the approved plans.

7. No development shall commence until a scheme for the maintenance, in perpetuity, of the footpath and amenity space identified for retention on the approved plans has been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein, in perpetuity.

**Reason :** To ensure that the footpath and adjacent landscaping areas are properly managed and maintained.

8. **Prior to any site excavation or groundworks**, a protective barrier of a specification approved by the planning authority must be located at least 5 metres from the eastern boundary. Barriers are to be inspected and approved in writing by the Planning Authority and must remain in place throughout the construction period. For the avoidance of doubt, the woodland adjoining the site to the east is covered by the Craig Wood Tree Preservation Order (HRC16) which gives statutory protection to all trees under Section 160 (Tree Preservation Orders) of the Town and Country Planning (Scotland) Act 1997. It is an offence to fell, lop top or damage the trees in any way, including the roots, without the prior consent of the planning authority.

**Reason:** To ensure the protection of adjacent woodland which forms part of the wider Craig Wood Tree Preservation Order

9. Prior to the commencement of works a revised plan shall be submitted to illustrate a more accessible (shallower) gradient for the footpath access to the east of the proposed house linking in with the dropped kerb on the roadside together with details of improved surfacing for the written approval of the planning authority in consultation with the access officer. Thereafter the footpath alterations and landscaping shall be completed in full accordance with the approved details prior to the commencement of works on the dwelling house hereby approved and thereafter maintained in perpetuity to the satisfaction of the planning authority.

**Reason:** In order to ensure appropriate public access and amenity.

## **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**

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.

### **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 (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

### **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.

### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

### **Mud and 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.

### **Construction Hours and Noise-Generating Activities**

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

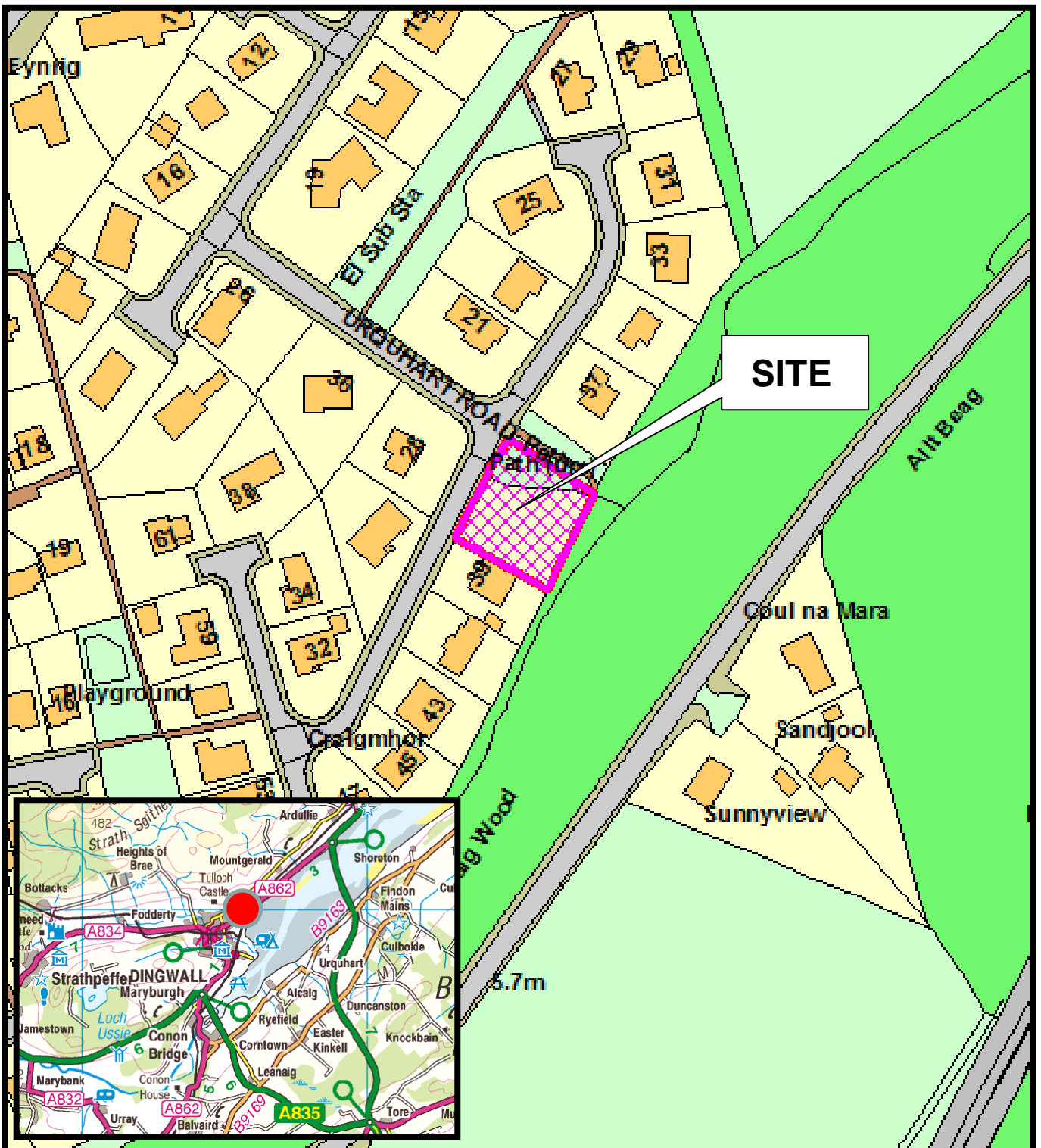
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact [env.health@highland.gov.uk](mailto:env.health@highland.gov.uk) for more information.

### **Protected Species - Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are

protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Rebecca Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – PL01 B General Plan  
Plan 2 – PL02 A Sections

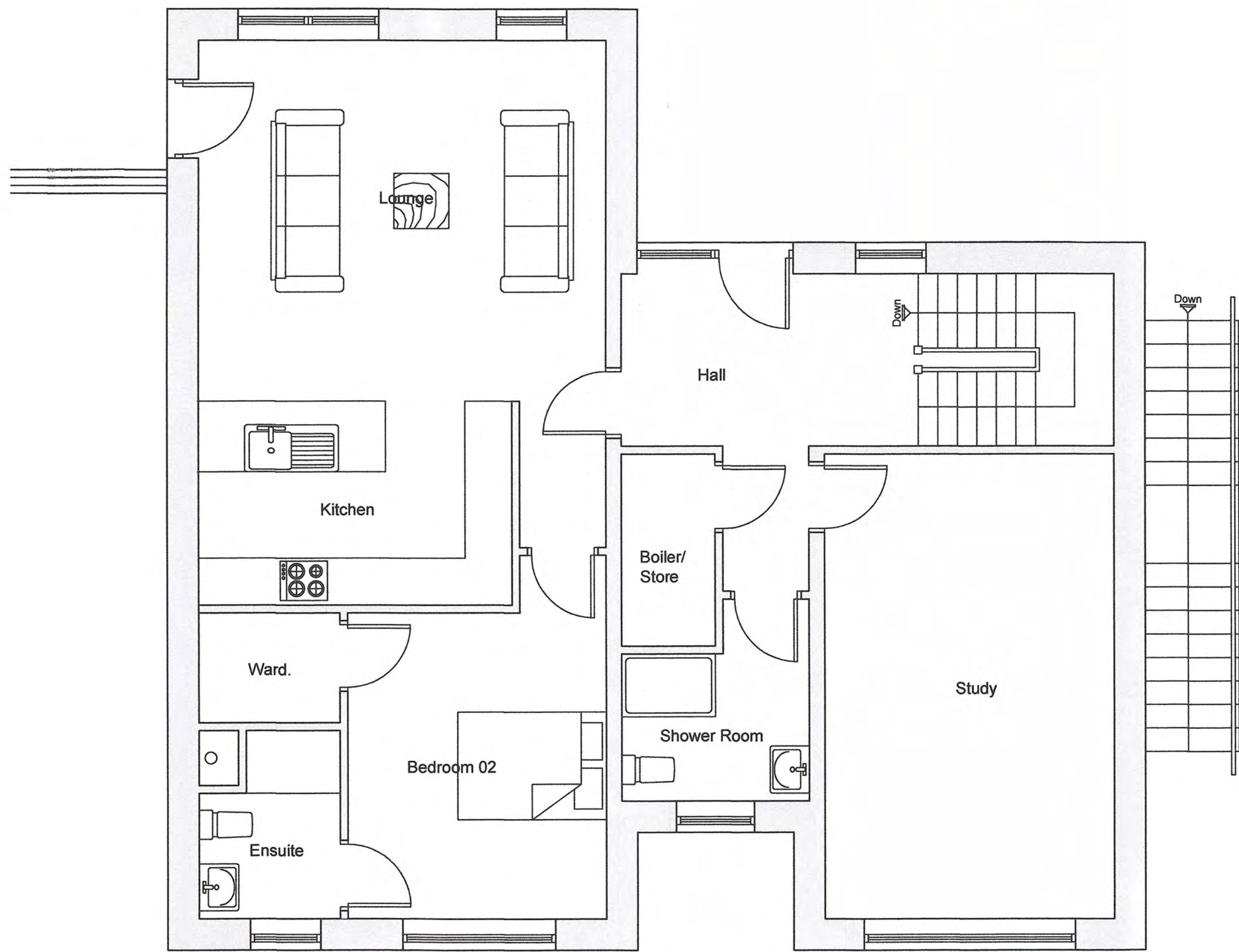


**16/03852/FUL**

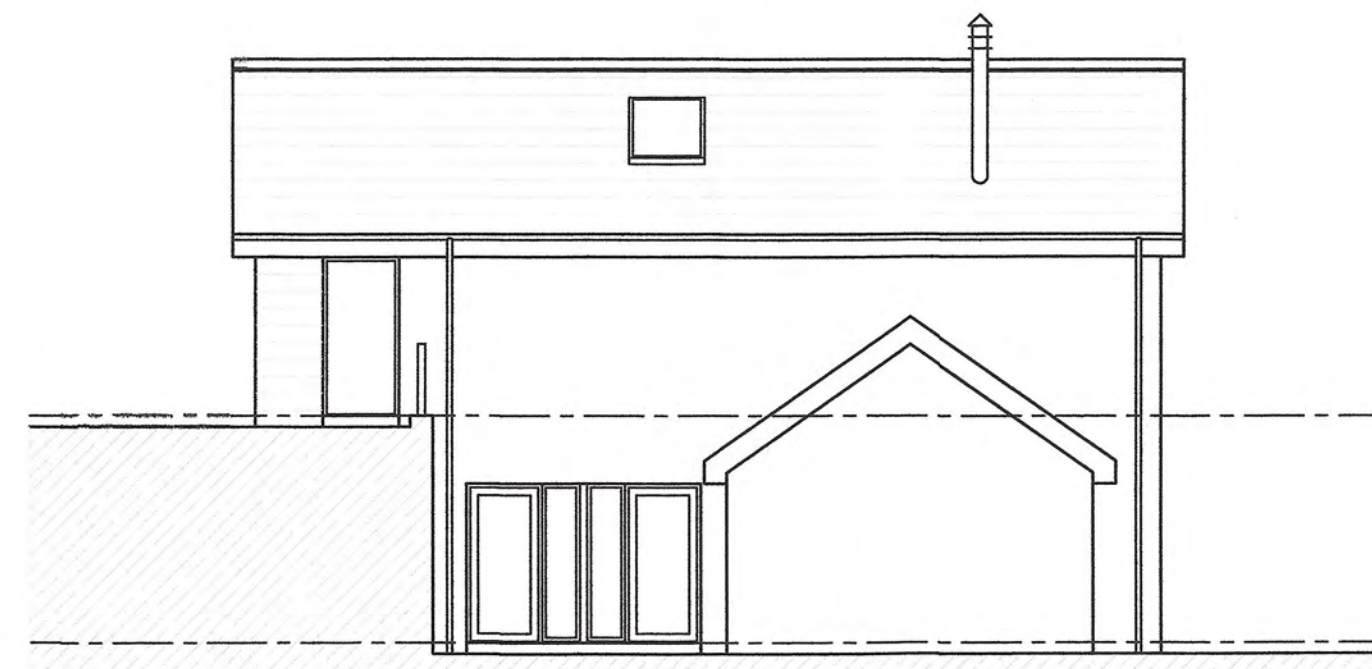
Erection of house with self-contained residential unit at  
 Land SE of 21 Urquhart Road, Dingwall







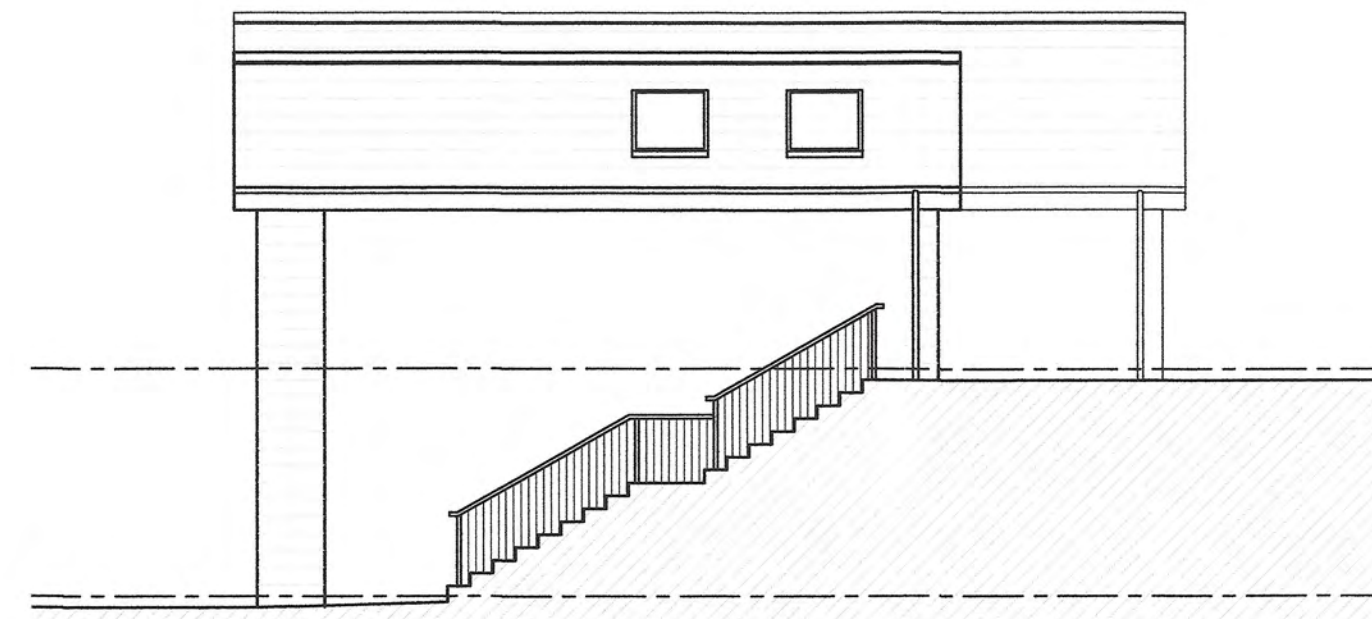
Proposed First Floor Plan - Scale 1:50



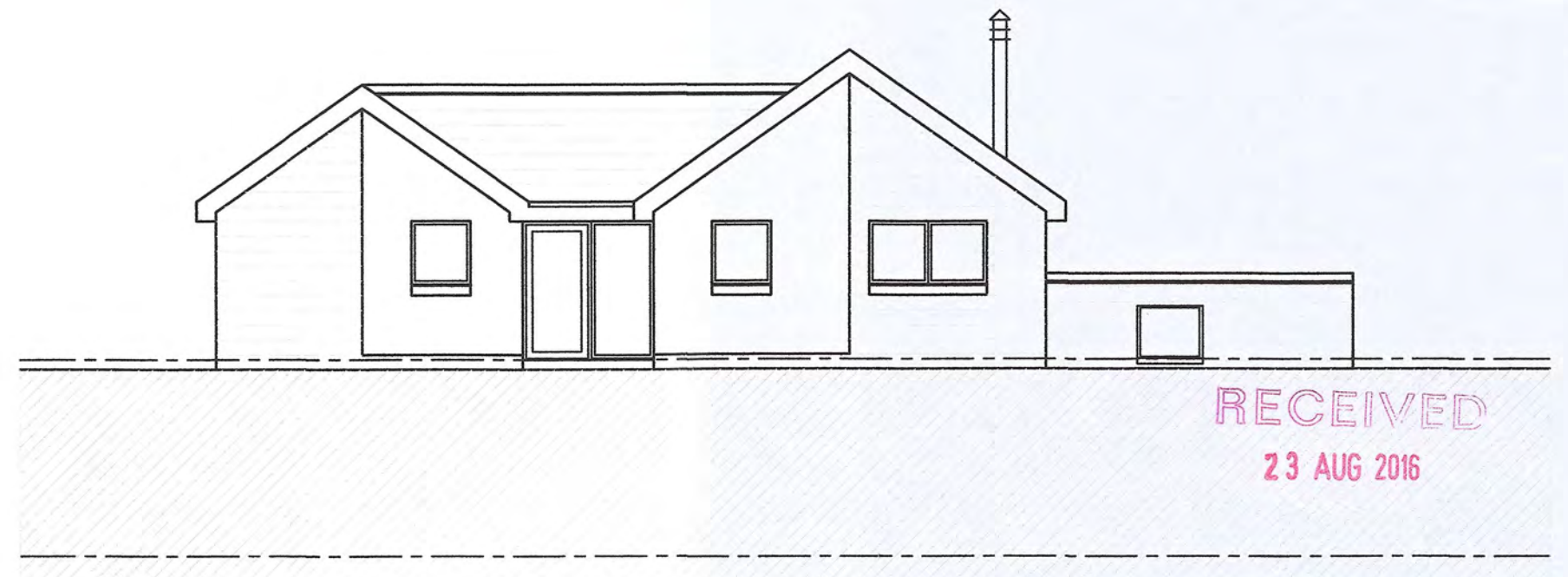
Proposed North West Elevation - Scale 1:100



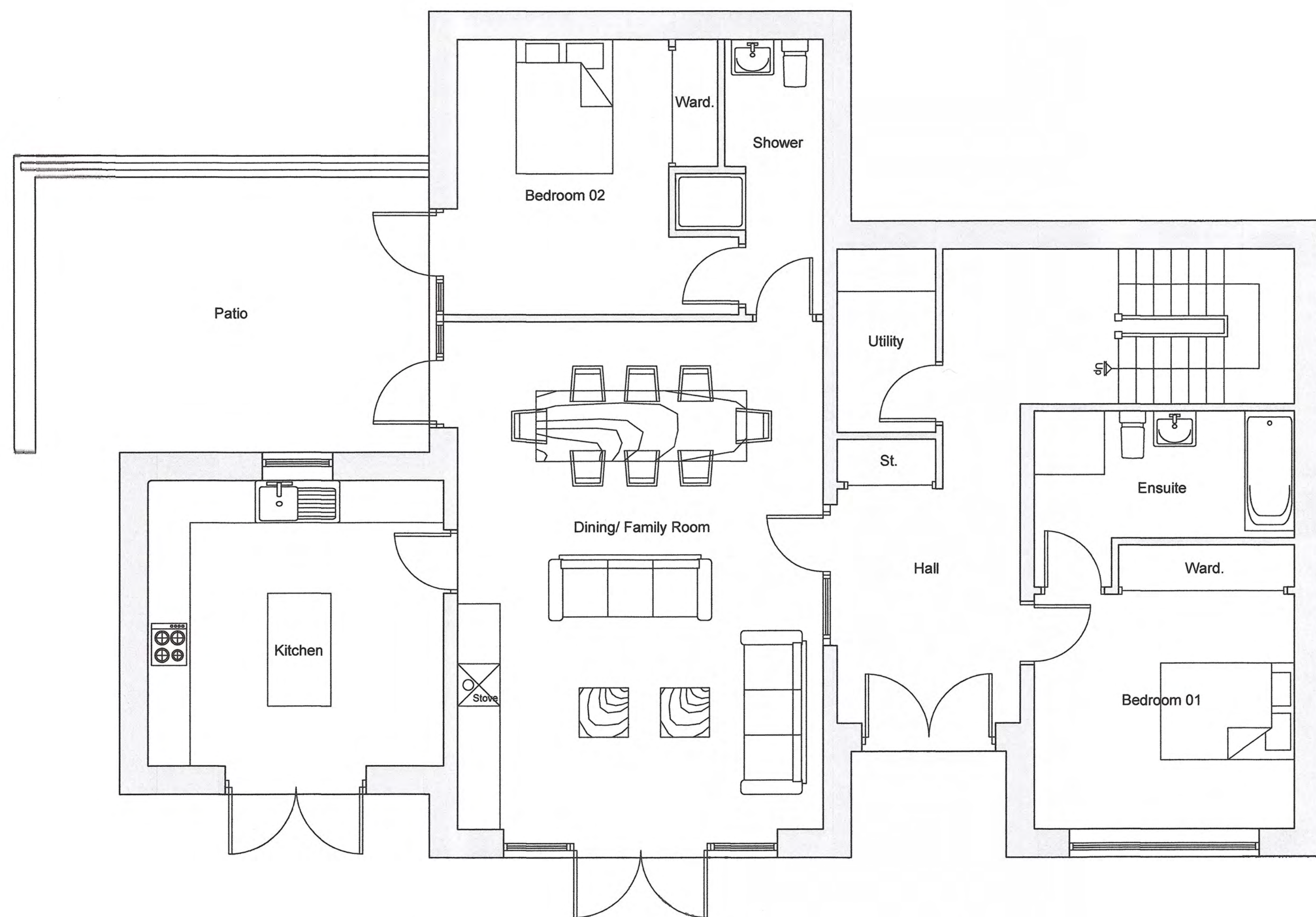
Proposed South West Elevation - Scale 1:100



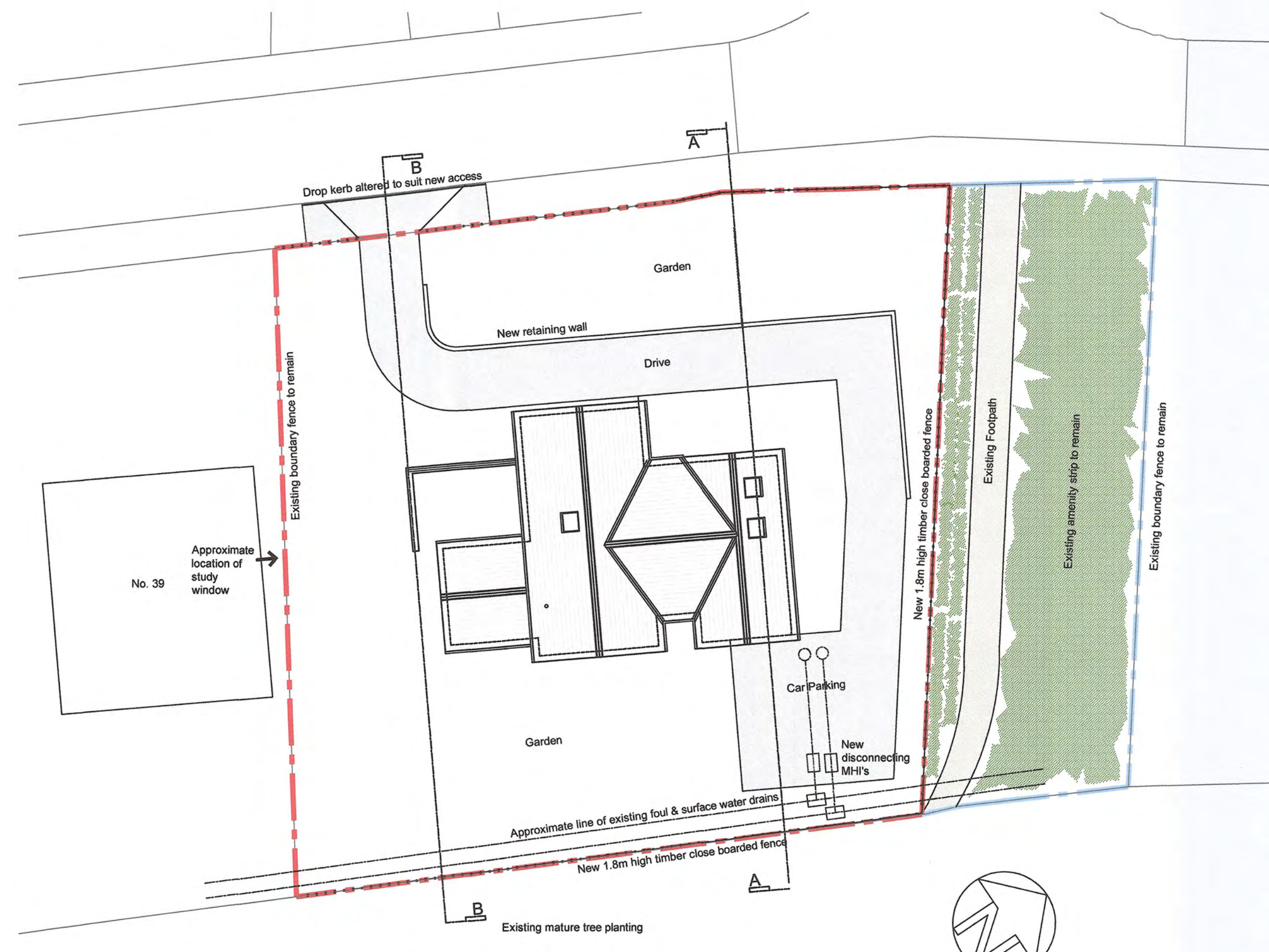
Proposed South East Elevation - Scale 1:100



Proposed North East Elevation - Scale 1:100



Proposed Ground Floor Plan - Scale 1:50



Proposed Block Plan - Scale 1:200

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 discrepancies in drawings to be referred to this office for decision.

REV NO.	DESCRIPTION	DATE

**architec**  
 architectural and building consultants

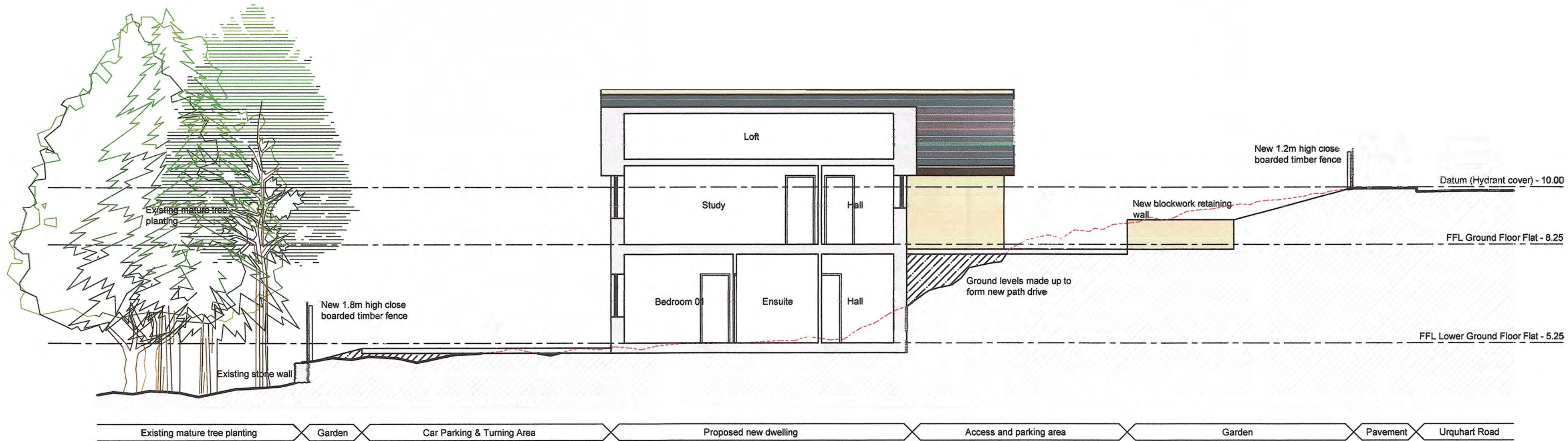
11 BUCKIE CRESCENT, ABERDEEN, AB22 8DD  
 info@architec.co.uk www.architec.co.uk

CLIENT Mr & Mrs Stuart

PROJECT Proposed Residential Development  
 Gap Site, Urquhart Road, Dingwall  
 CONTENT Proposed Plans & Elevations

SCALE	DATE	
As Noted	May 2016	
JOB REFERENCE	DRAWING	REV
1352	PL10	-

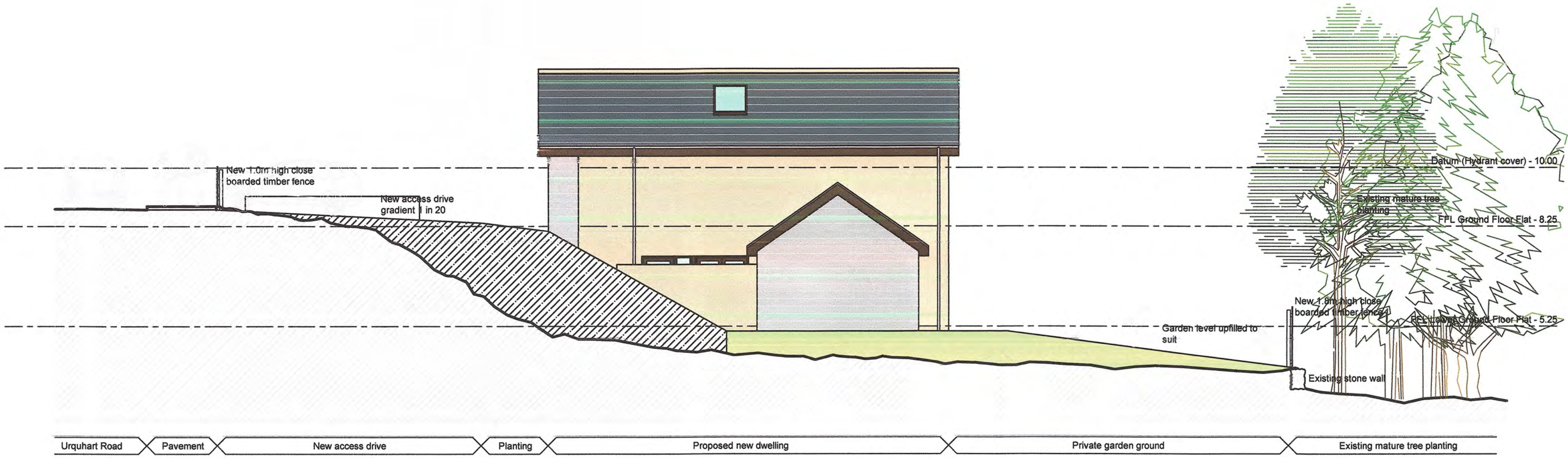




Proposed Site Section A-A - Scale 1:100

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Proposed Site Section B-B - Scale 1:100

REV. NO.	DESCRIPTION	DATE

**architec**  
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CLIENT Mr & Mrs Stuart

PROJECT Proposed Residential Development  
Gap Site, Urquhart Road, Dingwall

CONTENT Proposed Site Sections

SCALE As Noted DATE May 2016

JOB REFERENCE	DRAWING	REV
1352	PL11	-