

Agenda Item	6.5
Report No	PLS 058/17

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 24 October 2017

**Report Title:** 17/03827/FUL: Garten 1 LLP  
Moorfield House, Deshar Road, Boat of Garten, PH24 3BN

**Report By:** Area Planning Manager – South/Major Developments

### Purpose/Executive Summary

**Description:** Change of Use from Guest House (Class 7) to Dwelling/Holiday Let (Class 9) and alterations

**Ward:** 20: Badenoch And Strathspey

**Development category:** Local

**Reason referred to Committee:** 5 or more representations and Community Council objection

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.

### Recommendation

Members are asked to agree the recommendation to **GRANT** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 The proposal is for a change of use of a house to provide holiday accommodation. The current application does not seek to increase the overall provision of accommodation or extend the property although it should be acknowledged that the limit on numbers of persons using the premises may vary depending on the size of group booking the property. The property comprises 5 bedrooms.
- 1.2 Minor alterations include the removal of the external fire escape and the removal of the first floor door opening with a double glazed sash and case window installed on the west elevation. The ground floor window on the west elevation is to be enlarged with a new hardwood door and rear access ramp installed.
- 1.3 The existing access is from Deshar Road. Four off street parking spaces are provided within the site

## **2. SITE DESCRIPTION**

- 2.1 The property is a large detached 2 storey 5 bedroom property set within a large garden and bounded by the St Columba's church to the west and residential properties to the east and north. Mature trees define the boundaries adjacent to the boundaries of the site. It is located within the centre of Boat of Garten adjacent to Deshar Road. The property previously operated as a bed and breakfast facility.

## **3. PLANING HISTORY**

- 3.1 None

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Neighbour Notification: 16.09.2017

Representation deadline : 16.09.2017

Timeous representations : 10 representations against and 1 representation in support.

Late representations : None.

- 4.2 Material considerations raised are summarised as follows:

Representations against:

- Detrimental impact on amenity
- Noise
- Waste storage and management

- 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 **Boat of Garten Community Council:** Object as they consider the proposal will be detrimental to neighbourhood amenity and is contrary to Policy 2 of the Development Plan.

5.2 **Environmental Health:** No objections subject to a condition controlling noise levels.

5.3 **Cairngorms National Park Authority:** No objections.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Cairngorms National Park Local Development Plan (March 2015)**

Policy 2            Supporting Economic Growth  
Policy 3            Sustainable Design  
                          Community Information: Boat of Garten

### **6.2 Local Development Plan Policy Guidance**

Supporting Economic Growth  
Sustainable Design

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Highland Council Supplementary Planning Policy Guidance**

Highland Council Supplementary Planning Policy Guidance – Access to Single Houses and Small Housing Developments (May 2011)

### **7.2 Scottish Government Planning Policy and Guidance**

SPP Scottish Planning Policy (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.

### Determining Issues

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.

### Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy;
- b) the effect on residential amenity;
- c) waste storage;
- d) any other material considerations.

### Development plan/other planning policy

8.4 Policy 2 of the Cairngorms Local Development Plan applies and is the primary policy in this case and promotes economic development which enhances tourism. Policy 3, which requires proposals to demonstrate that the amenity enjoyed by neighbours is protected and that disturbance is minimised, is also given due consideration.

8.5 The minor external alterations including the removal of the external fire escape and installation of rear access ramp are considered appropriate. Subject to the proposal having no adverse impact on neighbouring properties the change of use would be supported by the Development Plan. The application has attracted a number of representations against the proposal principally on amenity grounds and these require further detailed consideration.

### Impact on residential amenity

8.6 A number of objections raise concerns regarding noise from occupants of the property, and in particular noise late at night. Environmental Health, for whom responsibility for the regulation of noise nuisance falls, has not raised any objection to the proposal on the basis of noise. While these are legitimate concerns it is not considered that conditions attached to a grant of planning permission is the appropriate tool to control what amounts to anti-social behaviour. Such powers lie with Police Scotland and/or Environmental Health should disturbance become a statutory nuisance.

8.7 In terms of the location of the property, it is set within a large garden and is some distance from the surrounding residential properties. Mature trees define the west and east boundaries which will provide further screening and protection to adjacent residents. The property is located on the main road through Boat of Garten and the proposed use is not incongruous with that location. It is understood the premises has operated as a bed and breakfast facility without complaint from residents.

8.8 Members will be aware that the use of properties for short term holiday lets has increased recently with so called 'party houses' also on the increase. There is no indication that this will be used other than for short term holiday accommodation. Noise nuisance or anti social behaviour is not a planning consideration and other

regulatory controls will manage this should the need arise.

- 8.9 Following representation responses a condition has been attached restricting the planning permission to the current applicant providing an opportunity for the planning authority to revisit the consent in the event that the current applicant relinquishes ownership.

#### Waste Management

- 8.10 Concerns have been expressed in relation to waste storage and management. Whilst the number of potential guests is not significantly increased beyond that of the current use as a result of the proposed change of use, a condition has been attached requiring a scheme for the storage of refuse and recycling at the site.

#### Other material considerations

- 8.11 In addition to representations submitted against the proposal, 1 representation supporting the change of use was submitted.

#### Non-material considerations

- 8.12 The behaviour of guests and type of groups using the facility is not a material planning consideration and is a management issue for the owner.
- 8.13 A number of representations made reference to the application being submitted by Garten 1LLP as opposed to an individual. The application is considered on its own merits and judged against the Development Plan and not the applicant.
- 8.14 Any potential impact on house prices is not a material consideration.

#### Matters to be secured by Section 75 Agreement

- 8.15 None

### **9. CONCLUSION**

- 9.1 All relevant matters have been taken into account when appraising this application. The Development Plan promotes economic development that enhances tourism. This of course has to be balanced alongside the amenity currently enjoyed by neighbours. Concerns raised by neighbours regarding the impact on amenity may be justified but are more appropriately controlled by others, not the planning authority.
- 9.2 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 there are no material considerations that indicate otherwise.

## 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. This permission shall enure for the benefit of the current applicant only namely Garten 1 LLP.

**Reason:** To enable the Planning Authority to exercise appropriate control of the development.

2. No development shall commence until a scheme for the storage of refuse and recycling within the application site has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

**Reason:** To ensure that waste on the site is managed in a sustainable manner.

### 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.

### 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.

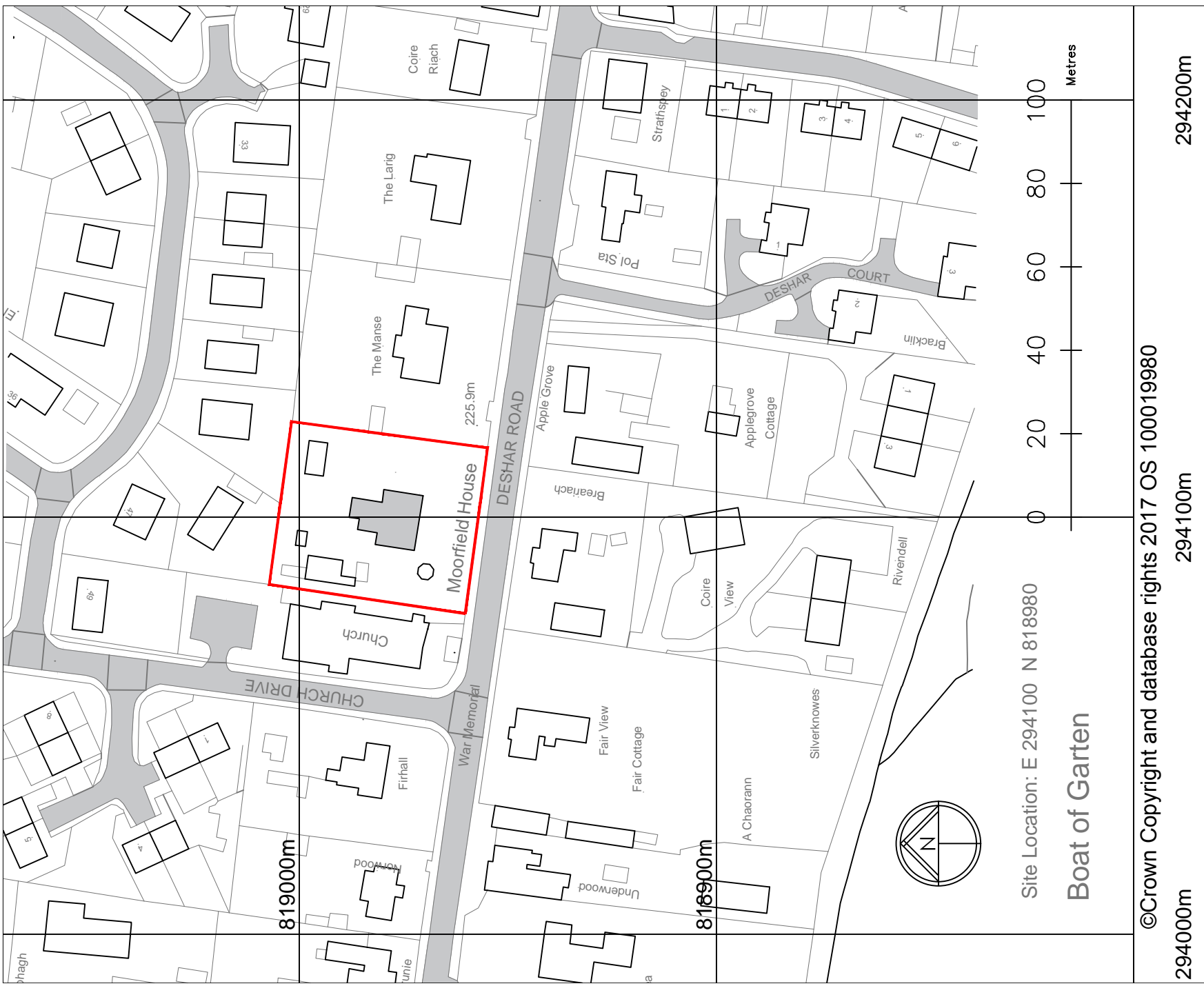
Copies of the notices referred to are attached to this decision notice for your convenience.

#### 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

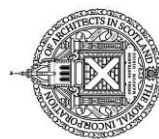
deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) 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

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: Roddy Dowell  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan (00) 01  
Plan 2 – Site Location Plan (00) 02  
Plan 3 – (00) 10 Elevation Plan



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# fraser ARCHITECTURE



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Title: Location Plan  
 Subject: Moorfield House, Deshar Road, Boat of Gaten, PH24 3BN  
 Client: Gaten 1 LLP  
 Job No: 17\_06

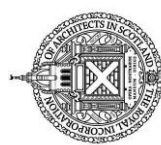
Dwg No: (00)01  
 Revision: ~  
 Date: Jun 17  
 Scale: 1:1250 (A4)





All buildings shown on the site are existing.

The site contains a mix of mature deciduous and evergreen trees, none of which will be affected by the proposed Change of Use and associated works.



# fraser ARCHITECTURE

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Title: Proposed Site Plan

Subject: Moorfield House, Deshar Road, Boat of Garten, PH24 3BN

Client: Garten 1 LLP

Job No: 17\_06

Dwg No: (00)02

Revision: ~

Date: Aug 17

Scale: 1:200 (A3)

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South Elevation - Proposed



North Elevation - Proposed

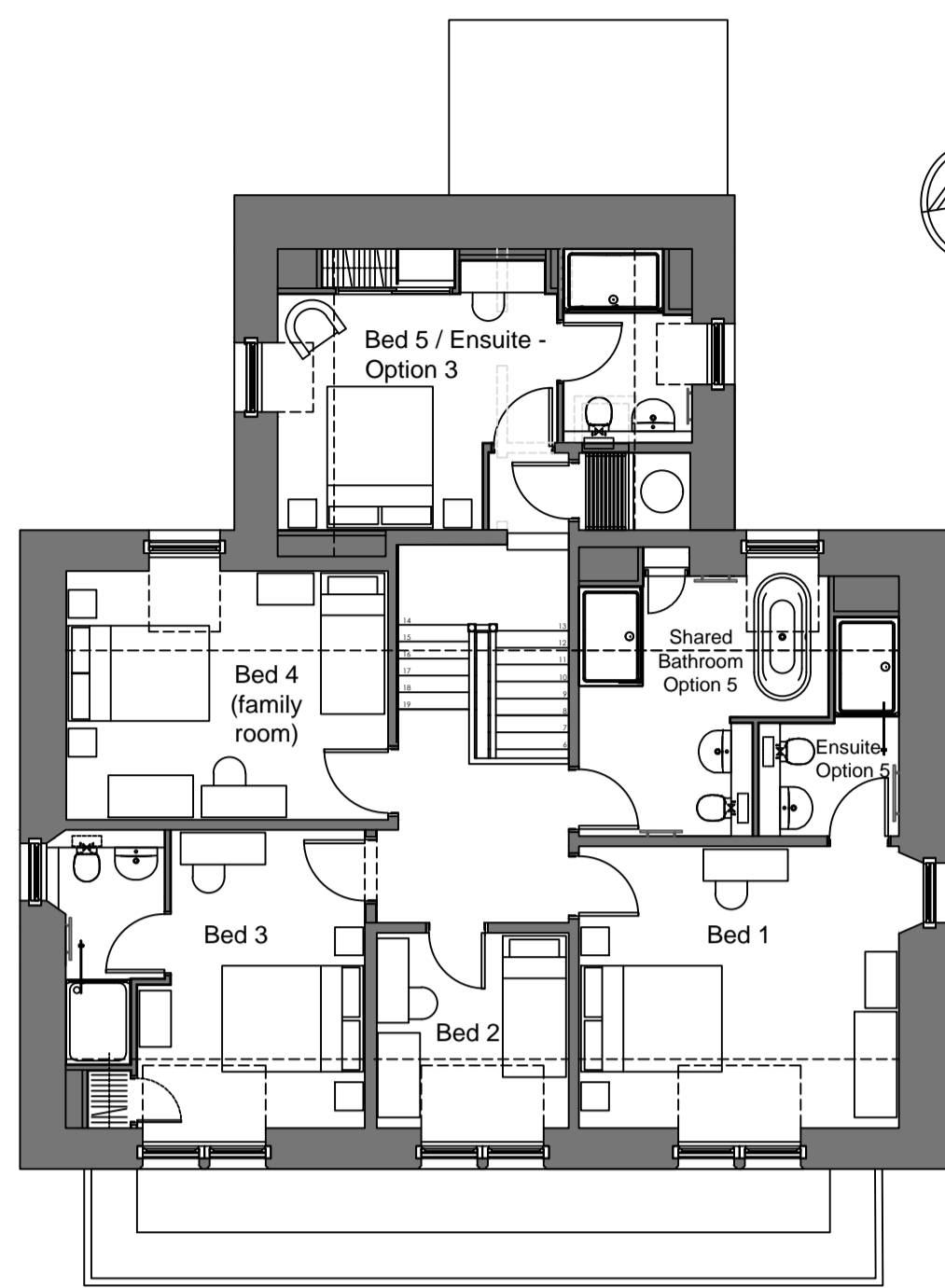


East Elevation - Proposed



West Elevation - Proposed

Window sill lowered to form new external door opening. Install new hardwood timber glazed door. External fire escape stair to be removed from West gable. Fire escape door removed. Opening reinstated with double glazed sash and case window.



Upper Floor - Proposed



South Elevation - Existing



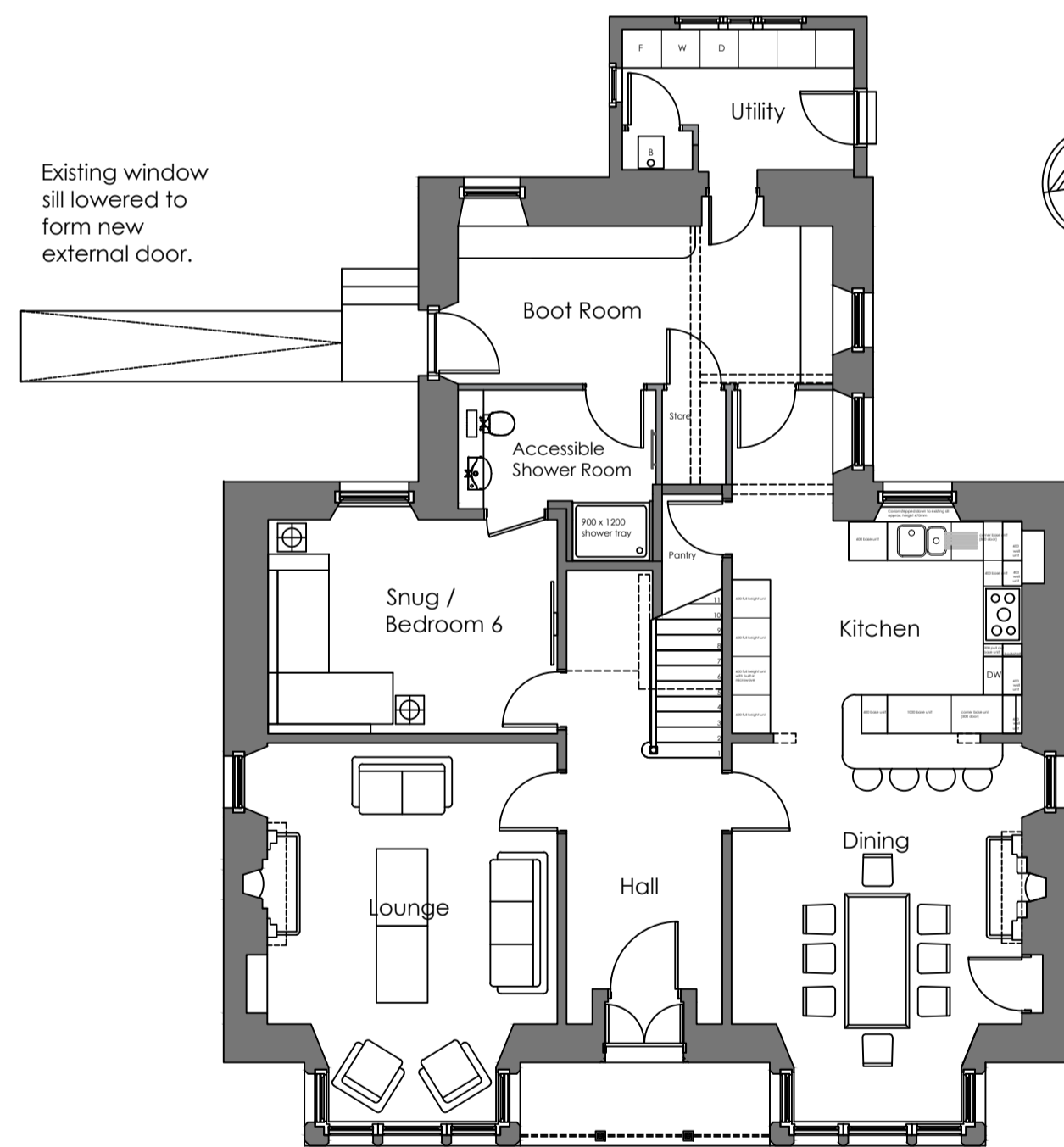
North Elevation - Existing



East Elevation - Existing

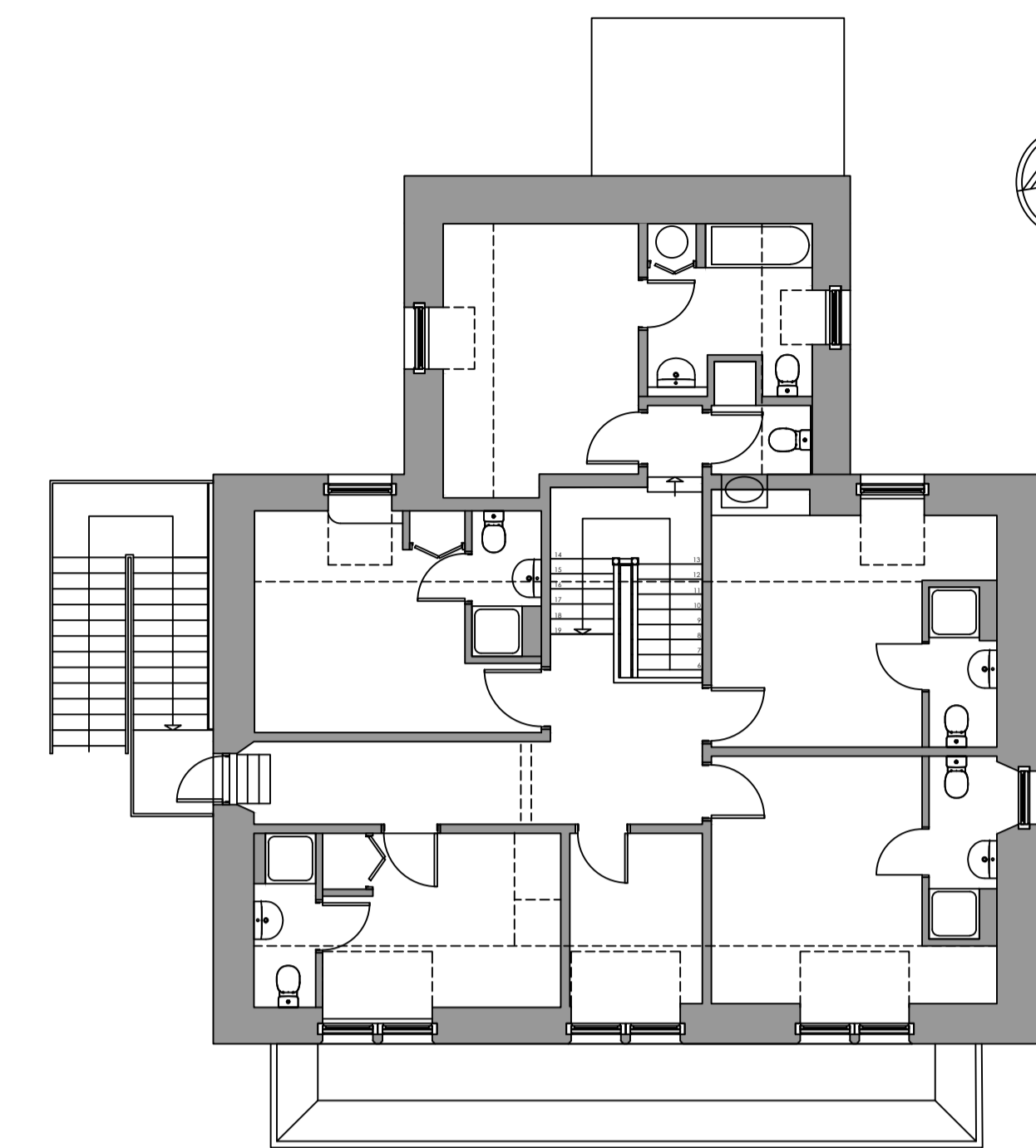


West Elevation - Existing

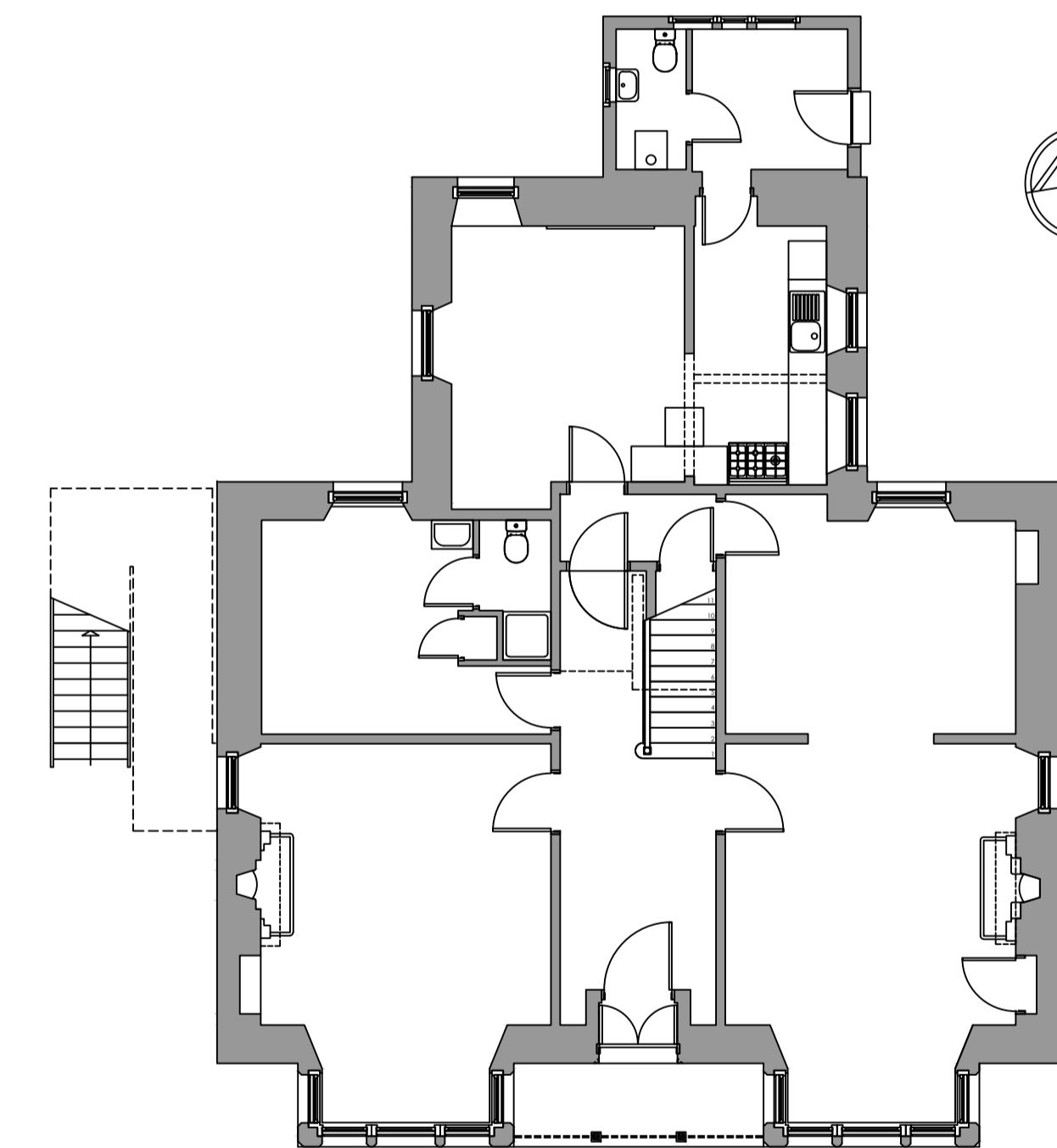


Ground Floor - Proposed

NOTE - All critical dimensions to be checked on site prior to carrying out work and / or ordering materials.



Upper Floor - Existing



Ground Floor - Existing

