

Agenda Item	6.5
Report No	PLS 070/17

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 12 December 2017

Report Title: 17/04558/FUL: Mr Richard Keeves and Laura Main
Dunedin, Ballifeary Lane, Inverness

Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Change of Use from house to House of Multiple Occupancy (HMO)

Ward: 13 – Inverness West

Development category: Local

Reason referred to Committee: Five or more objections from members of the public, and a 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 the change of use from a dwelling house to a 7 bedroomed House of Multiple Occupancy (HMO) with an occupancy rate of between 7-13 people. The proposal makes provision for off street car parking to the side and rear of the house, leaving the frontage of the property largely unaltered.
- 1.2 The vehicular access will remain unchanged; all foul and surface water drainage will be to the public sewer; and water will be provided by the public water supply.
- 1.3 Pre-Application Consultation: There has been no pre-application advice for the site; however a previous application for a similar proposal was withdrawn following officer advice which stated that the proposal was overdevelopment and the frontage was altered to an unacceptable level.
- 1.4 Supporting Information: Supporting Statement
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site comprises a detached, traditional, stone built house, centrally positioned within a plot of a size that is commensurate with the other plots in the vicinity. The house is 1¾ storeys in height with a large, single storey rear extension. There is a detached garage to the west of the house which sits directly on the boundary with no. 12 Ballifeary Lane. The front of the house is laid to grass and enclosed by a rendered wall, with a driveway leading to the garage. There are detached houses to the north and west and flats to the north. The land to the east is in car park use for Riverside Medical Practice, and is separated from the site by hedging and mature trees.

3. PLANNING HISTORY

- | | | | |
|-----|------------|-------------------------------------|-----------|
| 3.1 | 05.03.2001 | 01/00116/FULIN – Erection of Garage | Grant |
| 3.2 | 08.08.2017 | 17/02024/FUL – Change of use to HMO | Withdrawn |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Schedule 3 development

Date Advertised: 13.10.2017

Representation deadline: 27.10.2017

Timeous representations: 7 representations from 5 different households

Late representations: 1 late representation

4.2 Material considerations raised are summarised as follows:

- a) On street parking already difficult and the junction is already busy. The proposal will result in additional traffic which will exacerbate the issues of parking and visibility – road safety issue for pedestrians.
- b) Water pressure already very poor and proposal includes extra en-suites (also Maple Court hotel development). Sewage system also very old.
- c) Proposal significantly different from the previous use which was a home office within a family home, not a stand alone office.
- d) Will undermine the amenity and community of the area.
- e) House not being properly maintained, and concerns that this will continue
- f) Will it be staffed to ensure no anti-social behaviour?
- g) Needs to include a disabled parking space.

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.

5. CONSULTATIONS

- 5.1 **Ballifeary Community Council** object to the proposal on grounds of poor water supply and drainage; long walk to the bin store for residents; amount of work required to make the building comply with Health and Safety and HMO Fire Safety regulations; the addition of seven car park spaces – the site sits at an already congested junction and the proposal for an additional 7 cars in addition to those accessing the doctor's surgery and Maple Court may cause road safety issues.
- 5.2 **Transport Planning Team** has no objections to the proposal but recommends that the first 6m of the access is laid with a bituminous material and that one of the parking spaces is identified as disabled.
- 5.3 **Development Plan Team** makes no comment other than to reiterate those provided for withdrawn application 17/02024/FUL. These state that Policy 33 of the Highland wide Local Development Plan and associated Supplementary Guidance "Houses in Multiple Occupation" applies. This places a quantitative control on licenced HMOs outwith Inverness City Centre (to not exceed 10% of the total residential stock in any one census output area). If this application and an HMO license is granted, then the concentration in this census output area would be 1.6% (this would be the only licensed HMO in the output area). This would not be considered to be an excessive concentration. It further states that the proposals should be assessed against HMO3 of the Supplementary Guidance to ensure that the amenity of the site and the surrounding area is not adversely affected.
- 5.4 **Scottish Water** has no objection to the planning application. There is currently sufficient capacity in the relevant water treatment works and waste water treatment works to service the development. As is standard procedure, it further states that Scottish Water are unable to reserve capacity for the proposed development and this will be reviewed once planning permission has been granted and a formal application for connection has been made to Scottish Water. In terms of water pressure, their standard advice states that their current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet.

Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed.

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
29 - Design Quality & Place-making
33 - Houses in Multiple Occupation

6.2 Inner Moray Firth Local Development Plan (June 2015)

No site specific policies apply

7. OTHER MATERIAL CONSIDERATIONS

7.1 Highland Council Supplementary Planning Policy Guidance

Houses in Multiple Occupation (March 2013)

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.

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) traffic and pedestrian safety;
- c) impact on residential amenity/noise;
- d) impact on the character of the area; and
- e) infrastructure.

Development Plan/Supplementary Guidance

- 8.4 Planning permission for the change of use to HMO is required for the occupation of a house by six or more people or a flat by three or more people (other than single family units). This is different to the licensing regulations where a license is required for a house which is occupied by 3 or more unrelated people. Policy 33 (Houses in Multiple Occupation) of the HwLDP and Policies HMO1 and HMO3 of the associated Supplementary Guidance “Houses in Multiple Occupancy” set out the Council’s position with regard to Houses in Multiple Occupation.
- 8.5 The Council is committed to ensuring a balance of housing tenures across the Highlands, and recognises private rented stock (which includes HMOs) as an important element of the area’s housing stock which will help to support the sustainable economic growth of the area. However, in recognition of the issues that can arise from large numbers of unrelated people living together, Policy HMO1 of the Council’s Supplementary Guidance on Houses in Multiple Occupancy states that planning applications outwith Inverness City Centre which would result in the proportion of licensed HMOs in any census output area exceeding 10% of the total residential stock will not be supported except under exceptional circumstances. The Development Plan Team was consulted on this application and has confirmed that there are no other licensed HMOs within the census output area. The proposal would result in only 1.6% of the total housing stock in HMO use which is acceptable in terms of the concentration of HMOs.
- 8.6 Policy HMO3 of the Supplementary Guidance further states that any proposal should be assessed in terms of its impact on residential and community amenity (including provision of adequate bin storage and cycle/car parking); impact on the character of the area; and impact on traffic and pedestrian safety. These are similar considerations under Policy 28 of HwLDP in respect of preserving individual and community residential amenity. Subject to these aspects being overcome, the proposal would comply with the Development Plan and Supplementary Guidance.

Impact on traffic/pedestrian safety

- 8.7 A number of objections from local residents have centred on the impact of increased vehicle movements close to a junction and on a narrow, residential street, and the potential impact of this on pedestrian safety. It is acknowledged that there are current parking pressures in the area; however the proposal includes 7 off street parking spaces within the curtilage of the development. The Transport Planning Team was consulted on the application and is satisfied that the proposed 7 car park spaces are sufficient given the proximity to the town centre; and that the visibility splays are adequate. Cycle and bin storage is also adequately provided for. With the inclusion of planning conditions to ensure an increase in the depth of tarmac at the site entrance and to allocate one space for disabled use, the proposal is considered to be acceptable in terms of road safety and access/parking. The detached garage will be removed to allow for access to the car parking at the rear and side of the property.

Residential amenity/noise

- 8.8 Some objections raised concerns about the potential increase in noise and anti-social behaviour arising from the development. There is no reason to assume that people living in an HMO are any more likely to behave in an anti-social manner than any other resident; however the proposal will result in between 7 and 13 people living independently to one another, in what has previously been used as a family home, with ancillary office use. It is therefore inevitable that this will result in an increase in activity associated with day to day living and that this is likely to have some impact upon the amenity of neighbouring properties. The determining factor is whether or not such an increase in activity would result in associated noise or other nuisances which would be of a scale and type that is unacceptable within a residential area.
- 8.9 The proposal is for the house to remain in domestic use, albeit as a house in multiple occupancy. The types and scale of activities and associated noise is therefore likely to be compatible with the predominantly residential use of the area. Any issues regarding excessive noise or activity which impacts upon neighbouring residents would be matters for the licensed HMO operator to manage in the first instance, with exceptional noise concerns dealt with by Environmental Health under their regulatory powers.
- 8.10 The previous (withdrawn) application by the same applicant for a very similar proposal included the conversion of the detached garage into a further bedroom. The garage sits directly on the boundary with the neighbouring property and this proximity was considered to be unacceptable in terms of its impact on the amenity of the adjacent property. This element of the proposal has been removed, and all of the accommodation will now be contained within the main house. Furthermore, the garage will be demolished to allow for vehicular access to the rear of the property, removing any pressure for it to be converted into residential use in the future. There are no privacy concerns to the east of the property, which is well screened by mature planting from the adjacent carpark. Privacy to the west is provided by a 1.8m high timber fence along the front part of the site boundary and high, leylandii hedge along the rear part of the side boundary. The rear (north) boundary is a 1.8m timber fence with relatively large gaps between the boards, which would benefit with modification/replacement with a close-boarded fence. This will remove any nuisance caused by headlight glare to the house to the north and will be covered by a planning condition. While the parking to the rear will obviously remove garden ground, the overall site is considered large enough to accommodate adequate parking, cycle and bin storage while retaining areas of grass and planting which should result in a pleasant living environment.
- 8.11 The proposal includes 7 letting rooms, with the main house accessed from the front door and the rear extension accessed from a side entrance. Each room has en-suite facilities and they share 3 small kitchens. There are no communal living areas. The adequacy of facilities and living accommodation within an HMO is a matter for the licensing process and does not come within the remit of planning; however the reduction in the number of letting rooms from 8 to 7 is likely to improve the amenity of both the occupants and the neighbouring residents and is therefore welcomed.

Character of the area

- 8.12 Ballifeary Lane is predominantly characterised by detached houses, set within their own garden plots, and includes a mix of house styles, ages and sizes. The street is defined by a strong boundary of walls, hedges and fences, which extend the full length of the street alongside the pavement, behind which sit tended front gardens and modest driveways.
- 8.13 The previous (withdrawn) application sought to remove the wall fronting the property and replace the entire front garden with tarmac for car parking. It was considered that this would reduce the domestic character of the house, resulting in a more commercial feel, to the detriment of the character of the house and wider streetscape.
- 8.14 This revised proposal seeks to minimise these concerns by leaving the front wall and majority of front garden intact, and moving the car parking to the side and rear of the property. This will protect the setting of the traditional house, the wider streetscene, and overall character of the area, and is considered to be a more acceptable layout.

Infrastructure

- 8.15 A number of objections relate to low water pressure in the area which may be exacerbated by the increase in occupants/en-suites. The house currently connects into the public water supply and any issues with the water pressure would be a matter for Scottish Water. Scottish Water's standing advice in relation to water pressure states that their current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed.

Non-material considerations

- 8.16 A small number of objections refer to a potential increase in anti-social behaviour resulting from the proposed development. The issue of how the HMO is managed, or the potential behaviour of residents is not a planning matter and cannot be considered in the determination of this application.
- 8.17 It should also be noted that all registered HMOs must be in possession of an up to date license in order to operate. HMO owners, landlords and tenants are governed by regulations that establish the legal responsibilities and duties involved in managing a facility, including issues relating to anti social behaviour. If landlords fail to fulfil their responsibilities there are enforcement powers available to local authorities under the licensing regime. HMO licenses are issued for periods of up to 3 years, and the public are given the opportunity to make comment to the licensing authority whenever the license is put forward for renewal.

Matters to be secured by Section 75 Agreement

- 8.18 None

9. CONCLUSION

- 9.1 The Council recognises the private rented sector, which includes HMOs, as an important element of the area's housing stock. Planning policy is therefore generally supportive of HMOs and the part they play in supporting the sustainable economic growth of the area provided they do not make up an excessive proportion of the total housing stock and they have no significant impact on residential amenity, traffic and pedestrian safety and the character of an area.
- 9.2 This proposal would represent the first HMO within its census output area, therefore it is acceptable in terms of concentration of HMOs. It represents a scaled down version of a previous (withdrawn) proposal with a reduced number of letting rooms; removal of the garage conversion element; and the relocation of the car parking to the rear of the house, to the benefit of the character of the area. The Transport Planning Team and Scottish Water have raised no concerns about the access, parking or water and drainage infrastructure.
- 9.3 While the increase in the number of occupants will inevitably result in some additional activity and associated noise, the proposal is a residential use within a residential area, and it is therefore considered that the type and scale of activity can be accommodated without an unacceptable impact upon the amenity of existing properties. The success of the proposal will, to a large extent, depend on how well it is managed, and issues with this can ultimately be controlled through the licensing process.
- 9.4 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. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following conditions and reasons:

1. Prior to first occupation of the house as an HMO the garage shall be removed and car parking laid out as per approved drawing PL04 rev D.

Reason: In the interests of road safety

2. The rear (north) boundary of the site shall be fenced with a 1.8m (minimum) close boarded fence. No development shall commence until details of the fence have been submitted to and approved in writing by the planning authority. The fence shall thereafter be installed in accordance with the approved details prior to first occupation as a HMO.

Reason: In order to ensure that the northern boundary of the site is adequately screened.

3. For the avoidance of doubt, the leylandii hedge along the western boundary of the site shall be retained.

Reason: In order to ensure that the development is adequately screened.

4. The house shall not be occupied as an HMO until the cycle and bin storage has been provided as per approved drawing PL04 rev D.

Reason: In the interests of amenity

5. The house shall not be occupied as an HMO until one parking space has been designated for disabled use. For the avoidance of doubt, this should be the space closest to one of the entrances to the property.

Reason: In order to ensure that access to the house is acceptable.

6. The house shall not be occupied as an HMO until the first 6m of the driveway has been laid with a bituminous material, in accordance with Council standards and to the satisfaction of the roads authority.

Reason: In the interests of road safety

REASON FOR DECISION

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.

TIME 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

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 (paragraph 259), 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

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.

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 for more information.

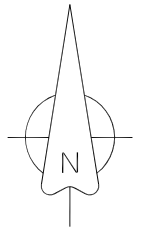
Protected Species – Halting of Work

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

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Christine Macleod
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan PL002 rev A
Plan 2 - Site Layout Plan PL04 rev D
Plan 3 - Existing Floor Plan PL050
Plan 4 - Proposed Floor Plan PL100 rev A

DO NOT SCALE, IF IN DOUBT PLEASE ASK
 All setting out must be checked on site prior to commencement. Any discrepancy must be reported to
 G. H. JOHNSTON Building Consultants Ltd



- Legend**
- - Pedestrian Path
 - - Site Boundary

PLANNING APPLICATION

REVISIONS

rev.	description	date
A	Public transport & paths added	14.07.2017

Client
Richard Keeves & Laura Main

Project
Conversion of Dunedin House to H.M.O
10 Ballifeary Lane, Inverness

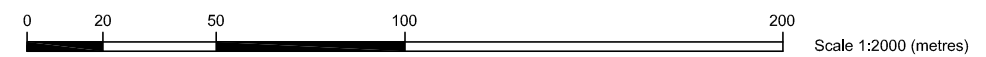
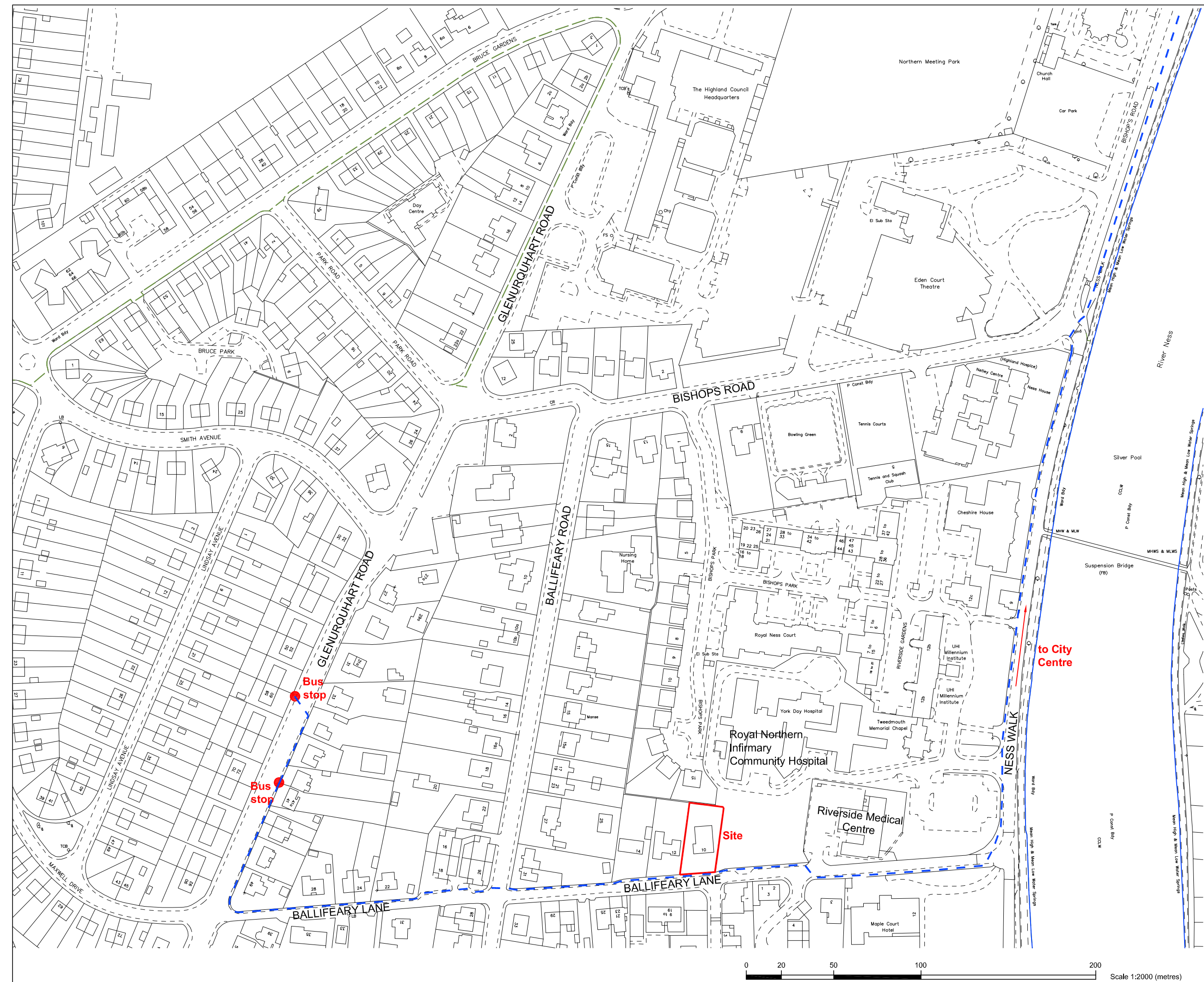
Drawing
Location Plan

Scale 1:2000@A3	Date Jul 17	Drawn by DC
Project no 2412	Dwg no PL002	Rev A

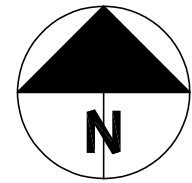
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PLANNING APPLICATION

REVISIONS		
rev.	description	date
C	Layout amended	25.09.2017
D	Layout amended	26.09.2017

Client
 Richard Keeves & Laura Main

Project
 Conversion of Dunedin House to H.M.O
 10 Ballifeary Lane, Inverness

Drawing
 Revised Site Plan

Scale 1:250@A3	Date April 2017	Drawn by PHJ
Project no 2412	Dwg no PL04	Rev D

G.H.JOHNSTON
 BUILDING CONSULTANTS LTD

WILLOW HOUSE
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 INVERNESS IV2 7PA
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TEL (01463) 237229
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Site Legend

Proposed

- Parking
- Path
- 1.8m fence
- Demolish Garage
- Remove Decking
- Covered 'Sheffield' stand cycle racking for 8no cycles
- Bin Storage

Existing

- Wall
- Fence 1.8m
- Fence 1.0m
- Gate
- Shrubs / trees
- Hedge



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PLANNING SUBMISSION

REVISIONS		
rev.	description	date

Client
 Richard Keeves & Laura Main

Project
 Conversion of Dunedin House to H.M.O.
 10 Ballifeary Lane, Inverness

Drawing
 Existing Floor Plans

Scale 1:100@A3	Date Sep.2017	Drawn by DC
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Project no 2412	Dwg no PL050	Rev
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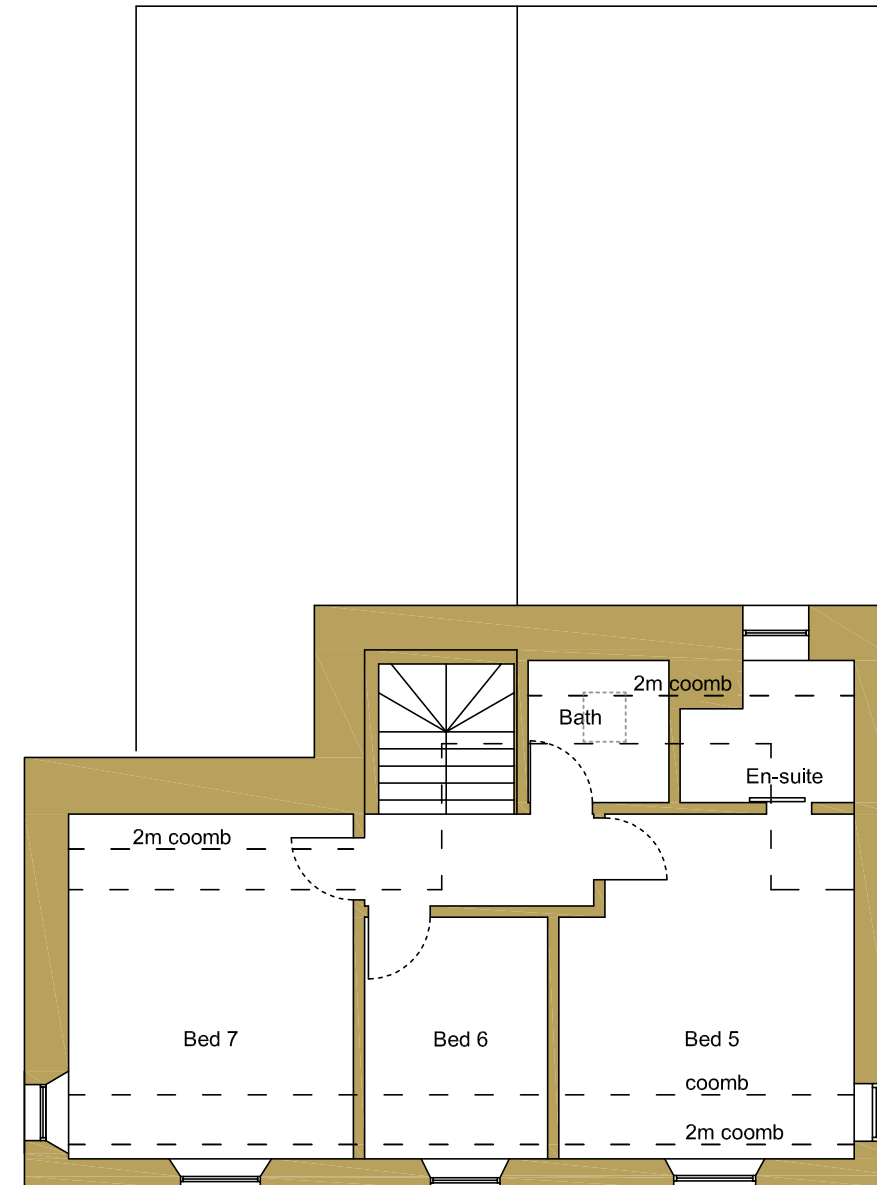
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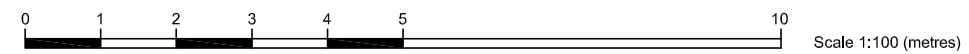
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Ground Floor



First Floor



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PLANNING APPLICATION

REVISIONS		
rev.	description	date
A	Garage amended to be demolished	27.09.2017

Client
Richard Keeves & Laura Main

Project
Conversion of Dunedin House to H.M.O
 10 Ballifeary Lane, Inverness

Drawing
Proposed Floor Plans

Scale 1:100@A3	Date Apr 2017	Drawn by DC
Project no 2412	Dwg no PL100	Rev A

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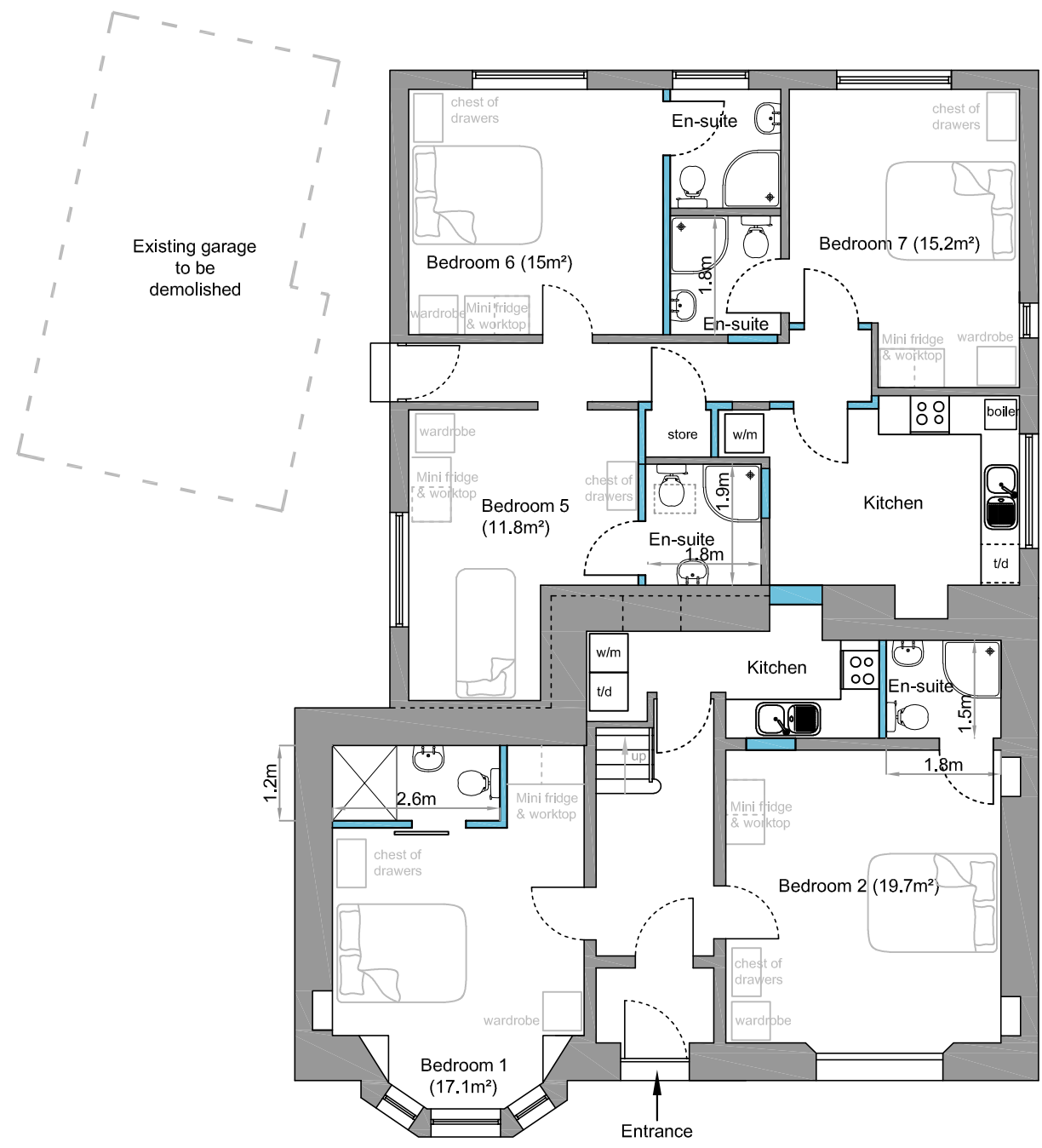
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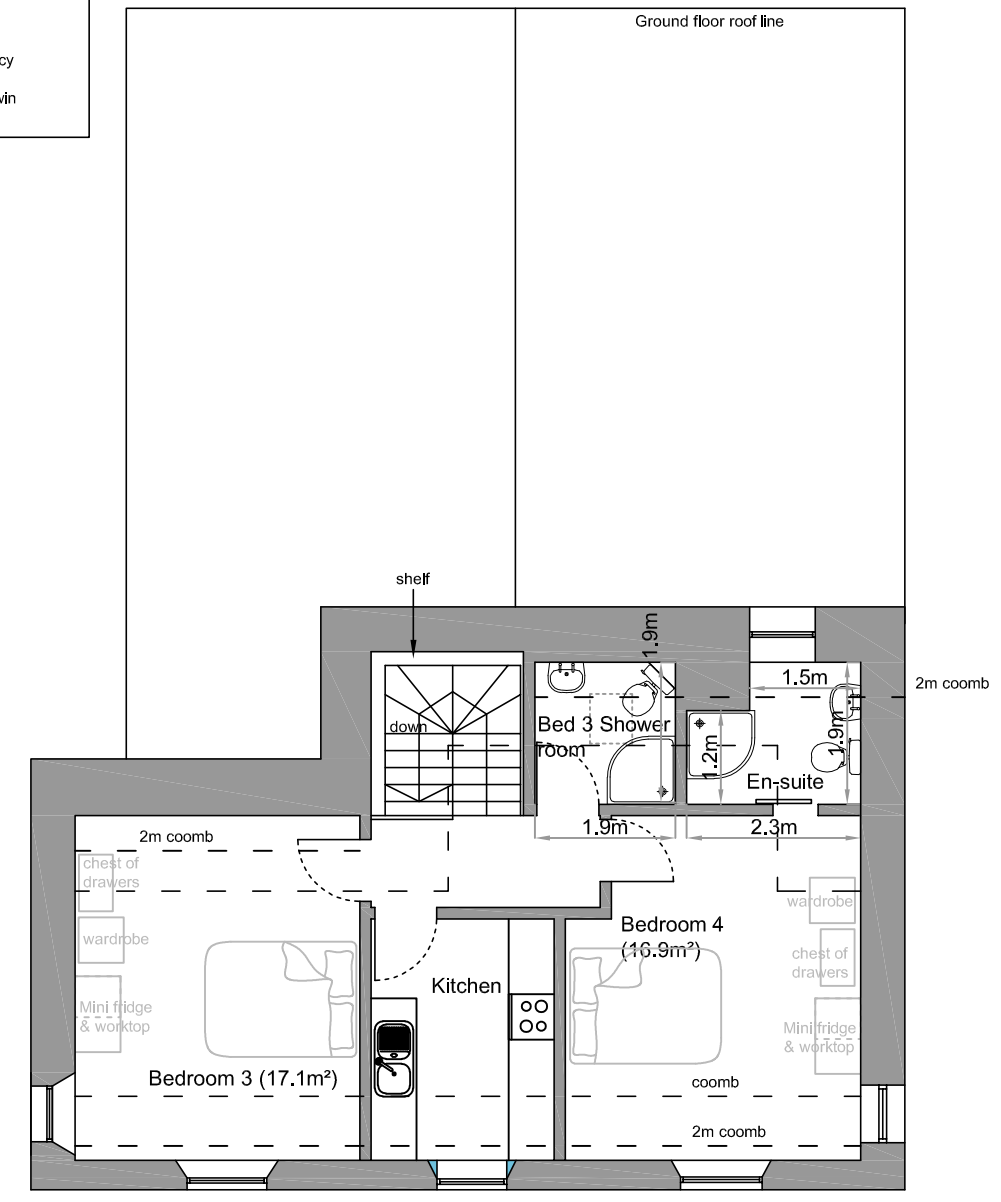
Legend
 - New partitions

Bedroom occupancy
 Total amount of rooms = 7
 Bedroom 5 - Single occupancy
 Bedrooms 1,2,3,4, 6 & 7 - Twin occupancy

Existing Manhole



Ground Floor Layout



First Floor Layout

***Please note that dimensions are indicative only and may be subject to alterations on site.**

