

Agenda Item	6.8
Report No	PLS 023/18

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 13 March 2018  
**Report Title:** 17/05659/FUL: Mr Kevin MacKay and Mrs Sonia MacKay  
Land 75m East of Birchwood, 1 Broallan, Beauly  
**Report By:** Area Planning Manager – South/Major Developments

### **Purpose/Executive Summary**

**Description:** Erection of house and detached garage  
**Ward:** 12, Aird and Loch Ness  
**Development category:** local development

**Reason referred to Committee:** Member referral

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.

### **Recommendation**

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

## **1. PROPOSED DEVELOPMENT**

- 1.1 The proposal is to erect a detached 1½ storey house and a detached double garage with a loft in the roofspace.
- 1.2 The house will have a gable projection to the front and rear, and dormer windows in the main section of roofspace to the front, and velux to the rear. There is a single storey annex on the rear.
- 1.3 The house will be finished in wet dash render, and natural stone, with a natural slate roof. The garage will be finished in wet dash render with a stone pier to both sides of the entrance. It too will have a slate roof.
- 1.4 Pre Application Consultation: None
- 1.5 Supporting Information: Design and access statement
- 1.6 Variations: none

## **2. SITE DESCRIPTION**

- 2.1 The site is located within a field on the east side of the public road, on a right angle bend in the road. A private access road leading to 'Birchwood' and 'Kintail' adjoins the field to the west, and a row of trees separate it from an access road to 2 Broallan to the east.
- 2.2 A copse lies along the west boundary with the private access road.

## **3. PLANNING HISTORY**

- 3.1 None

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: neighbour

Date Advertised: 22/12/17

Representation deadline: 05/01/18

Representations: 6 representations received (5 households) objecting to the proposal

1 representation received supporting the proposal.

- 4.2 Material considerations raised are summarised as follows:

- a) New access overlaps with septic tank to neighbouring property
- b) New access crosses soakaway for existing house
- c) Loss of trees from access road through woodland
- d) Access crosses wettest part of the field
- e) Access passes in front of existing houses
- f) Access does not follow boundaries like other local accesses.
- g) Access track would provide potential access to rest of field for further houses

- h) Need to ensure surface water is adequately drained and does not run off onto neighbouring land
- i) Poor quality phone lines & broadband
- j) Poor drainage in the area
- k) Discharge from septic tank will end up in watercourses
- l) House will be very prominent, overwhelming, and visually intrusive
- m) Large house design not compatible with existing local properties
- n) Loss of grazing land
- o) 2 Broallan is located on an adjoining croft and separated from 1 Broallan by a boundary fence and tree line
- p) Additional house would result in the expansion of the housing group at 1 Broallan.
- q) Would connect two different housing groups which are accessed from different roads, and not result in infill.
- r) Sits in a different line from existing houses
- s) Replacement planting would impact on views and light enjoyed by Kintail and Birchwood as they grow,
- t) Habitat for red deer, red squirrel, garden birds, frogs, newts, and hunting grounds for red kite, pine marten, and buzzards.
- u) Connection to water mains would decrease pressure to existing property
- v) Capacity of electricity supply to serve an additional house
- w) Contrary to policy 28, 29 and policy 35 – would result in inappropriate intrusion into an undeveloped field and detrimentally impact existing trees
- x) Detrimentially impact upon field drains and springs
- y) Impair privacy and view from Birchwood
- z) Precedent for further housing in Broallan and Kilmorack

4.3 1 letter of support:

- a) Applicant seeking to return to his roots where he was born and grew up
- b) Will boost school numbers
- c) Animal and wildlife lovers will be an asset to the neighbourhood

4.4 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).

## 5. CONSULTATIONS

5.1 **Kilmorack Community Council:** If approved, requests a condition to restrict any future development on the land (house site and field within which it is located). No further development should be permitted on that site. Local residents have expressed their concerns as to the level of infill development and made their objection to the Planning Office.

5.2 **Forestry Officer:** The proposal needs to be assessed against Policy 51, Trees and Development. No objections subject to conditions requiring a tree protection plan, a tree planting plan and maintenance programme, and the use of a 'no-dig' cellular containment system for the access track construction.

## **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
- 35 - Housing in the Countryside (Hinterland Areas)
- 51 - Trees and Development
- 52 - Principle of Development in Woodland
- 58 - Protected Species
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

### **6.2 Inner Moray Firth Local Development Plan 2015**

Outwith settlement development area; within Hinterland. No specific policies apply

## **7. OTHER MATERIAL CONSIDERATIONS**

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

- Access to Single Houses and Small Housing Developments (May 2011)
- Highland's Statutorily Protected Species (March 2013)
- Housing in the Countryside and Siting and Design (March 2013)
- Trees, Woodlands and Development (Jan 2013)

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

Scottish Planning Policy 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) impact on trees
  - c) impact on protected species

d) any other material considerations.

Development plan/other planning policy

- 8.4 Policy 35, Housing in the Countryside (Hinterland), of the Highland-wide Local Development Plan applies. The site lies outwith any settlement development area and within the hinterland, and therefore falls to be assessed against Policy 35, Housing in the Countryside (Hinterland). This presumes against housing in the open countryside unless it fully complies with one of the exceptions detailed in the Council's adopted Supplementary Guidance: Housing in the Countryside and Siting and Design.
- 8.5 Supplementary Guidance: Housing in the Countryside and Siting and Design is also relevant. This details the exceptions and lists criteria whereby housing in the hinterland can be supported. The exceptions apply to :
- land management / business requirements
  - affordable housing by a recognised provider meeting a demonstrable local affordable housing need
  - replacement dwelling / conversion of a traditional building
  - subdivision of garden grounds
  - rounding off or infilling within an existing housing group
- 8.6 There is no land management / business justification; the house is not being provided by a recognised affordable housing provider to meet a recognised affordable housing requirement; the site is currently a field so the exceptions relating to the conversion/replacement of a building or subdivision of garden grounds do not apply. The applicants in their supporting 'Design and Access Statement' consider that the proposal should be assessed against housing group criteria.
- 8.7 In order to be classed as a 'housing group', there must be at least 3 houses which are physically detached from each other, and all of the houses must have a perceptible relationship with one another and share a well-defined cohesive character (amongst other factors).
- 8.8 If it is accepted that the proposal lies within a housing group which complies with this definition, it must meet all of the following criteria:
- constitute acceptable small scale in-fill or round-off
  - reflect and respect the character, cohesiveness, spacing and amenity of the existing group and the individual houses within the group;
  - not result in the coalescence of the housing group with another housing group;
  - not impact detrimentally on existing trees and/or woodland;
  - not create an inappropriate intrusion into a previously undeveloped field or open land or overwhelm their landscape setting;
  - meet the 'general development considerations'.
- 8.9 It therefore needs to be established whether this constitutes part of an existing housing group, and whether it complies with the above criteria whereby

development within a housing group can obtain support.

- 8.10 There is a row of 3 existing houses alongside the private access road to 2 Broallan which runs past the east site boundary. These all lie on the opposite side of the road to the application site. There are no existing buildings on the other side of the access road (the side containing the application site), only a wide verge which contains trees and a small watercourse. The pattern of these houses is linear along the east side of the access road. The introduction of a house on the west side of the access road would not reflect this existing pattern of development. Furthermore, the wide verge containing trees and the watercourse form a visual barrier between the site and these houses.
- 8.11 The application site therefore fails to reflect and respect the linear character of this group of houses on the approach to 2 Broallan, and would create an inappropriate intrusion into a previously undeveloped field in conflict with policy criteria. It would clearly expand rather than round off these houses through introducing development on the opposite side of the access, and being visually separated from these houses by the road verge, trees, and watercourse.
- 8.12 There is also a row of houses on the north side of the public road immediately after the right angle bend in the road, which all front onto the public road (The Homestead, Corbenic, Torgormack Lodge, and Heatherlea). A private access track to Kintail and Birchwood (1 Broallan) runs along the east side of Heatherlea. The woodland forming part of the field within which the application site lies runs along the east side of the access track and continues along the public road.
- 8.13 The bend in the road marks the start of this group of houses, and the access track provides further containment of this group. Although the access to the site is taken off this track, the house site is set some distance into the field, has no road frontage, and no visual relationship with these houses. It is further separated from these houses by the woodland which runs alongside the public road up to the right angle bend, and then continues alongside the private access road. It is clearly visually detached from this housing group.
- 8.14 The house does lie within the north east corner of the field, and two existing houses at 1 Broallan adjoin the field to the north and lie to the north west of the site (Kintail and Birchwood). Although they are in close proximity to the housing group at Heatherlea, they do not form a part of this group since they do not share the road frontage, lie to the other side of the access road, are set back on a different plane to these houses, and are also visually separated by trees.
- 8.15 These do not constitute a housing group within the terms of the policy, since there are only two houses, and there must be at least 3 houses to be classed as a housing group.
- 8.16 Furthermore, the proposed house site in the north east corner of a field would create an inappropriate intrusion into a previously undeveloped field, and also result in an 'island' site house and garden with a field immediately to the north, and field again to the south and west. It lacks visual relationship with the existing houses, Kintail and Birchwood, which both share an access and lie outwith the field on higher land to the north west of the site, and are seen against the backdrop of

woodland. This site is set at a lower level, is surrounded by fields, has a long access which dissects the field, and visually extends the built form. It cannot be construed as forming a house plot within an established housing group and runs counter to the terms of Housing in the Countryside policy guidance.

- 8.17 Policy 28, Sustainable Design, of the Highland-wide Local Development Plan assesses development against a number of factors, including:
- being compatible with public service provision (water and sewerage, drainage, roads, schools, electricity)
  - impact on individual and community residential amenity,
  - demonstrating sensitive siting and high quality design in keeping with local character and the natural environment.
- 8.18 The neighbour has expressed concern that the proposed access could impact upon their septic tank and soakaway. The applicants consider that their access can be formed without infringing on this. This is a private matter for the applicants and the neighbour to resolve.
- 8.19 The phone lines and broadband in the area are also of low quality, and water pressure is low. Neighbours are concerned that a further house will add to these existing issues which they experience. They are also concerned about the capacity of the electricity network to accommodate an additional house.
- 8.20 Neighbours have also expressed concern that the site is very poorly drained. The applicants have pointed out that their field is at a lower level than the other properties at 1 Broallan and therefore their proposals will not adversely impact upon the drainage of neighbouring property. Their proposal to erect a house will also lead to them investing in a drainage scheme and thus improving the drainage of their field and woodland. The applicant has not however provided any detailed information to demonstrate that existing drainage problems will be resolved by this proposal.
- 8.21 SEPA regulate private drainage systems to prevent discharge leading to issues of pollution.
- 8.22 The applicants also point out that they have a young child, and that, should they be permitted to build their house, they will be supporting Teanassie Primary School and other local services.
- 8.23 The proposed house site within the field is stepped to the front and side of the existing houses, and will therefore not directly impinge upon their views, since they will be looking onto the proposed access rather than directly onto the house. This, along with the distances between the existing and proposed house also helps maintain the privacy for existing and future residents. Furthermore, the amount of traffic generated by one house will not materially impact upon the amenity of existing houses by virtue of noise and disturbance.
- 8.24 The proposal therefore lies to be assessed in relation to whether it demonstrates sensitive siting and high quality design in keeping with the character of the local area. The field currently provides visual separation between the access to 2 Broallan, the existing houses at 1 Broallan, and the houses at Heatherlea, and also

helps to provide containment to these 3 distinct areas of existing housing. The introduction of a house into this field will remove the visual gap which is provided by the existing field, and replace it with a substantial detached dwelling which will visually extend the existing built form.

- 8.25 The field also lies in direct line of sight from the public road which runs past 4 and 5 Broallan. The location forward and to the side of Birchwood will place the proposed house in the foreground and Birchwood in the background, increasing the visual prominence of the proposed house. It will also introduce a house to the side of Birchwood, and thus extend the built form in an easterly direction. The introduction of a house into an otherwise undeveloped field will erode and detract from the rural character of the area, and is not in keeping with the existing settlement pattern.
- 8.26 The access also by necessity crosses the field since the house is located in the north east corner, and access is taken from the west. This dissects the field, and fails to form a visual relationship with any existing features. This too fails to relate to the existing settlement pattern.
- 8.27 The house design is a substantial 1½ storey with a gable projection to the front and rear. Other houses in the vicinity are generally single or 1½ storey design and of varying size. Although larger than many other houses, this is not dis-similar from them and the design can be assessed as in keeping with other housing in the vicinity.
- 8.28 The applicants have referred to a recently approved house 16/04416/FUL at nearby Ruisaurie. This was permitted within an otherwise undeveloped field. However, the settlement pattern at Ruisaurie is single houses, each separated by a field area, forming a dispersed pattern of development. This is materially different from the character of Broallan which is small linear groups of houses alongside the road, with each group separated by woodland / field. The introduction of a house within the field at Ruisaurie was assessed as maintaining the dispersed pattern of single house separated by field, and thus complies with housing group criteria, and integrated in a satisfactory manner with the surrounding landscape character. The site the subject of this application, by contrast, fails to relate visually to the existing housing groups, extends the built form, and fails to integrate into the character of the surrounding landscape. This is contrary to Policy 28 since it fails to demonstrate sensitive siting in keeping with the local character and the natural environment.
- 8.29 Policy 29, Design Quality and Place-Making, requires new development to make a positive contribution to the architectural and visual quality of the place in which it is located. Applicants should demonstrate sensitivity and respect towards the local distinctiveness of the landscape, architecture, design and layouts, and development should be an integral part of the settlement.
- 8.30 As discussed in relation to Policy 28 above, the proposal extends the built form into an otherwise undeveloped field which currently provides a visual gap which adds to the rural feel of the area. It fails to reflect the linear nature of existing housing development in the immediate vicinity, and extends the built form in an inappropriate manner. This fails to integrate into the settlement, fails to respect the local distinctiveness of the landscape within which it sits, and is thus contrary to



## Policy 29.

### Trees and Development

- 8.31 Development proposals should promote significant protection to existing hedges, trees and woodlands on and around development sites. The acceptable developable area of a site must be influenced by tree impact, and adequate separation distances will be required between established trees and new development.
- 8.32 The house site itself sits within a grass field and therefore does not impact upon any trees. However, the proposed access track passes through mature woodland which is listed in the Native Woodland survey of Scotland as mature upland birchwood. The access follows an existing clear line where the field has historically been accessed, but there is no sign of any hard surfacing. It would be necessary to fell some trees in order to form the proposed service bay, but it should be possible to keep tree felling to a minimum in the formation of the access track by using a 'no dig' cellular containment system for the road construction. A condition can be used to obtain this. There is also indicative tree planting within the site which would compensate for any trees which are felled.
- 8.33 Neighbours have expressed concern that the indicative tree planting would obscure their views, as the trees grow. The loss of an individual's view however is not a material planning consideration.
- 8.34 The Forestry Officer is therefore content that the impact on trees / woodland would be small, and that the proposal complies with Policy 51. There is no objection to the proposal subject to conditions to require the use of a 'no-dig' cellular containment system and adequate protection to the trees during construction, and the submission of a detailed tree planting plan and maintenance programme.

### Protected Species

- 8.35 Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, a survey will be required to establish any such presence and, if necessary, a mitigation plan to avoid or minimise any impacts on the species, before the application is determined.
- 8.36 A neighbour has expressed concern that the proposal could impact detrimentally upon red squirrel, pine marten, red kites, buzzards, and other wildlife. However, the small amount of tree felling which would be required to accommodate the access / service bay will not materially impact upon the woodland, and consequently should not materially impact upon any wildlife / protected species utilising it. Similarly, the house will be sited in the north west corner of the field, and a substantial area of field will remain unaffected by the development.
- 8.37 A protected species survey has not been carried out, and the presence or absence of protected species is therefore not currently known. However, the nature of the development is such that issues are unlikely to arise.

### Other material considerations

8.38 There are no other material considerations.

### Non-material considerations

8.39 The issue of the applicants being local to the area and wishing to build their dream home is not a material planning consideration. Neither is their wish to be nearer to their families and live in a more rural location. These are personal preferences which do not impact upon a planning application and could in any event be addressed by purchasing an existing house.

8.40 Each application stands to be assessed on its merits, in relation to planning policy and other material planning considerations. The issue of precedent is therefore not a material planning consideration.

## **9. CONCLUSION**

9.1 The proposal fails to comply with the criteria whereby Housing in the Countryside can obtain support, since it does not round off or infill an existing housing group, but would result in the incremental expansion of existing housing in the hinterland. This is contrary to the provisions of Policy 35 of the Highland wide Local Development Plan and the adopted Supplementary Guidance Housing in the Countryside and Siting and Design.

9.2 The proposal fails to reflect the pattern of development in the vicinity, which is of linear groups, but instead introduces development into an otherwise undeveloped field which is visually detached from any of the existing groups. This erodes the rural feel of the area, introduces development into foreground views, fails to relate to any natural features to provide a sense of containment, and fails to integrate into the existing landscape setting, each of which is contrary to the provisions of Policy 28 and Policy 29 of the Highland wide Local Development Plan.

## **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**

The application is recommended for refusal for the reasons set out below.

## Reasons for Refusal

1.	<p>The proposal is contrary to the provisions of Policy 35 of the Highland-wide Local Development Plan, and contrary to the provisions of the adopted Supplementary Guidance : Housing in the Countryside and Siting and Design, in that it would:</p> <ul style="list-style-type: none"><li>• fail to infill or round off an existing housing group, but instead extends the built form into an otherwise undeveloped field;</li><li>• lacks any visual relationship with any of the existing housing groups in the vicinity, being visually separated from them by existing trees and being sited on a different plane;</li><li>• fails to reflect the linear character of the existing housing groups in the vicinity, having no road frontage;</li><li>• fails to comply with other general development considerations which require a proposal to not impact detrimentally on scenic quality and landscape characteristics.</li></ul>
2.	<p>The proposal is contrary to the provisions of Policy 28 and Policy 29 of the Highland-wide Local Development Plan, in that it fails to respect and would impact detrimentally on the local character of the area and on the natural environment, by virtue of:</p> <ul style="list-style-type: none"><li>• being prominently located within an otherwise undeveloped field;</li><li>• extending the existing built form through introducing a house to the side and front of 'Birchwood', which erodes the visual gap and detracts from the rural character of the area;</li><li>• forming an 'island' of development with field to front, side, and rear, and an absence of any existing sense of backdrop and containment;</li><li>• failing to reflect the linear nature of the existing housing groups in the vicinity;</li><li>• the location of the access dissecting the field, whereas existing accesses relate to features on the ground.</li></ul>

## REASON FOR DECISION

The proposal fails to accord with the provisions of the Development Plan and applicable supplementary guidance and other material planning considerations.

Signature: Nicola Drummond

Designation: Area Planning Manager – South/Major Developments

Author: Susan Hadfield

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

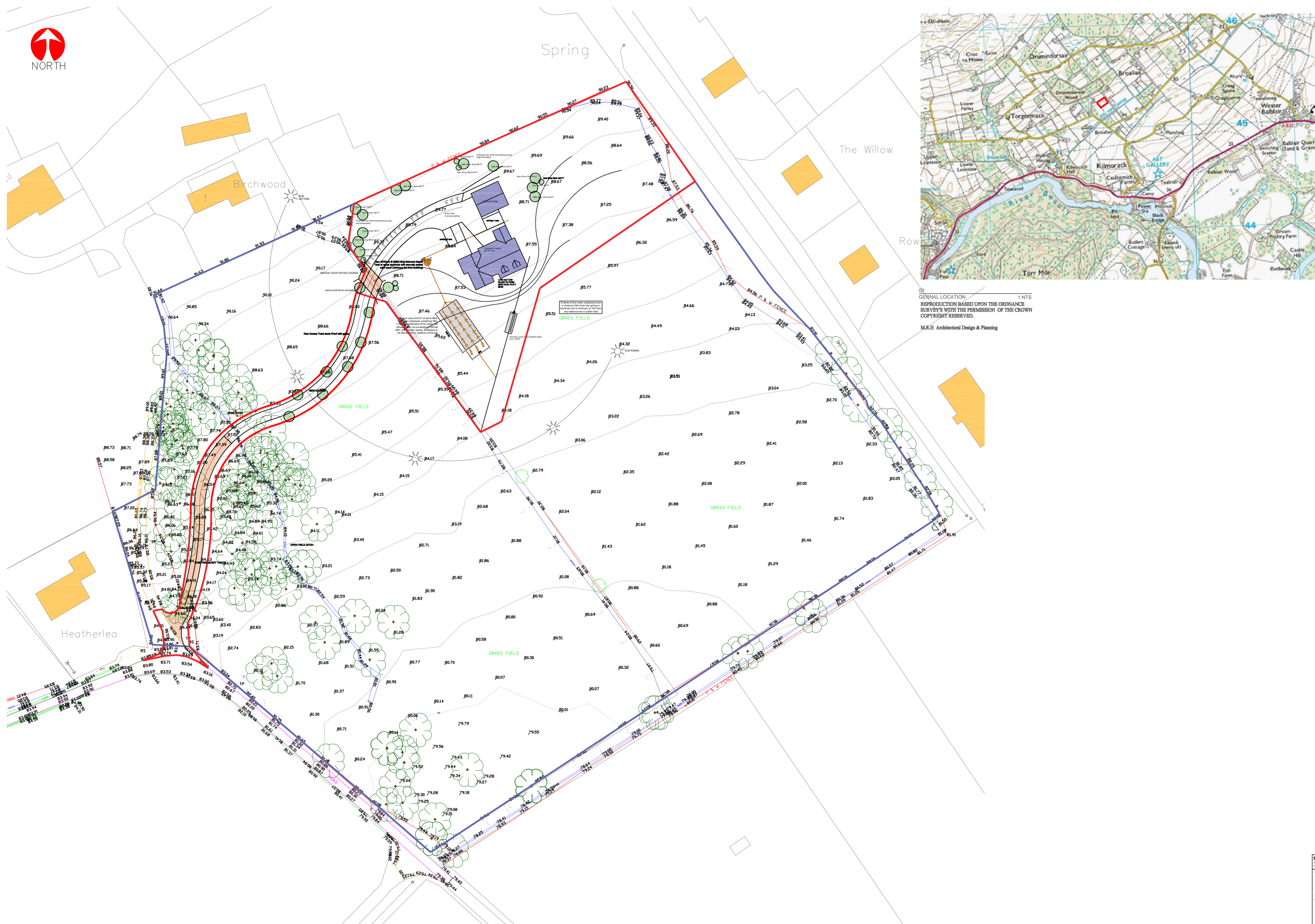
Relevant Plans: Plan 1 - 17-33-MRH-1 location/site plan

Plan 2 - 17-33-MRH-20 floor/elevation plans

Supporting Information - Design and access statement

Supporting Information - letter from applicant





02 GENERAL LOCATION 1:NTS  
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Client:  
Mr Kevin & Mrs Sonia Mackay

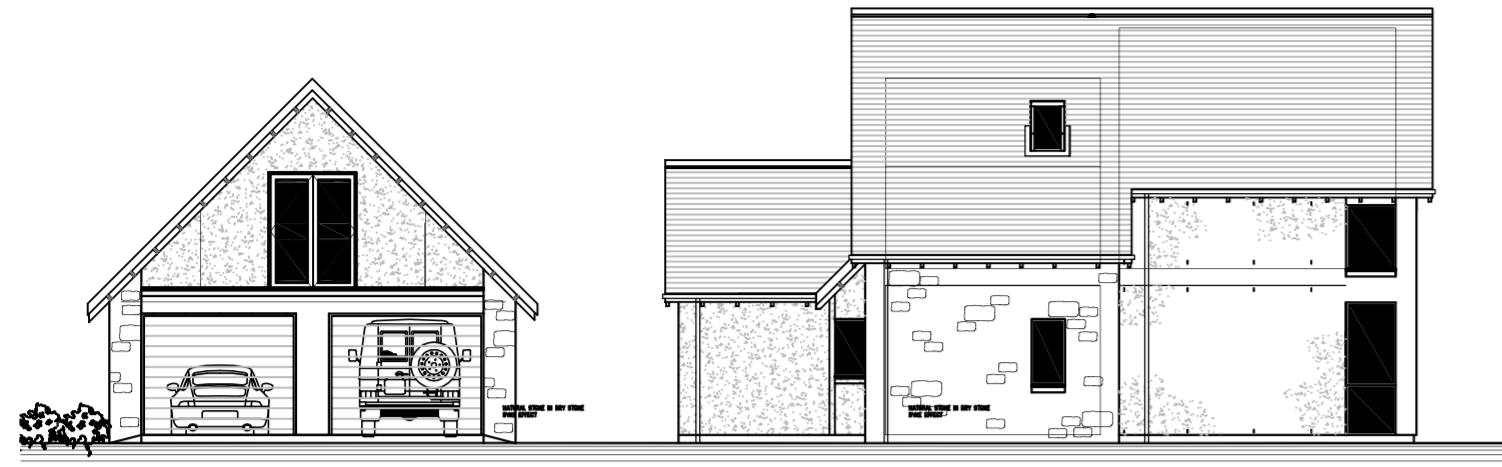
Project:  
CRAFT LAND  
1 Broallan, Kilmorack, Beauly IV4 7AH

Description:  
Proposed Private Dwelling and Garage

Scale	A1	Project No.	2017-33
Date	Oct 2017	Drawing No.	17-33-MRH-11
Drawn By	M.R.H.		
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03 SOUTH WEST ELEVATION 1:100



04 SOUTH EAST ELEVATION 1:100

WALL CONSTRUCTION  
EXTERIOR WALL NATURAL STONE  
AND WET DASH RENDER

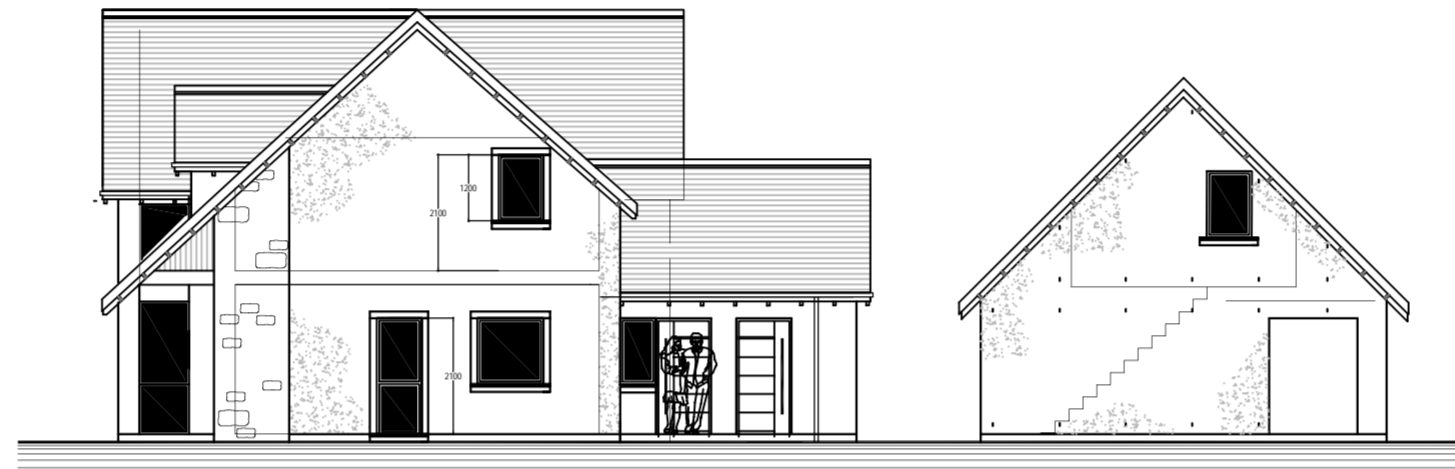
WINDOWS  
ALL WINDOWS AND DOORS TO BE HIGH  
PERFORMANCE ALU CLAD DOUBLE  
GLAZED UNITS WITH K GLASS TO  
MATCH IN STYLE AND PROPORTIONS  
GREY IN COLOUR

ROOF:  
NATURAL SLATE

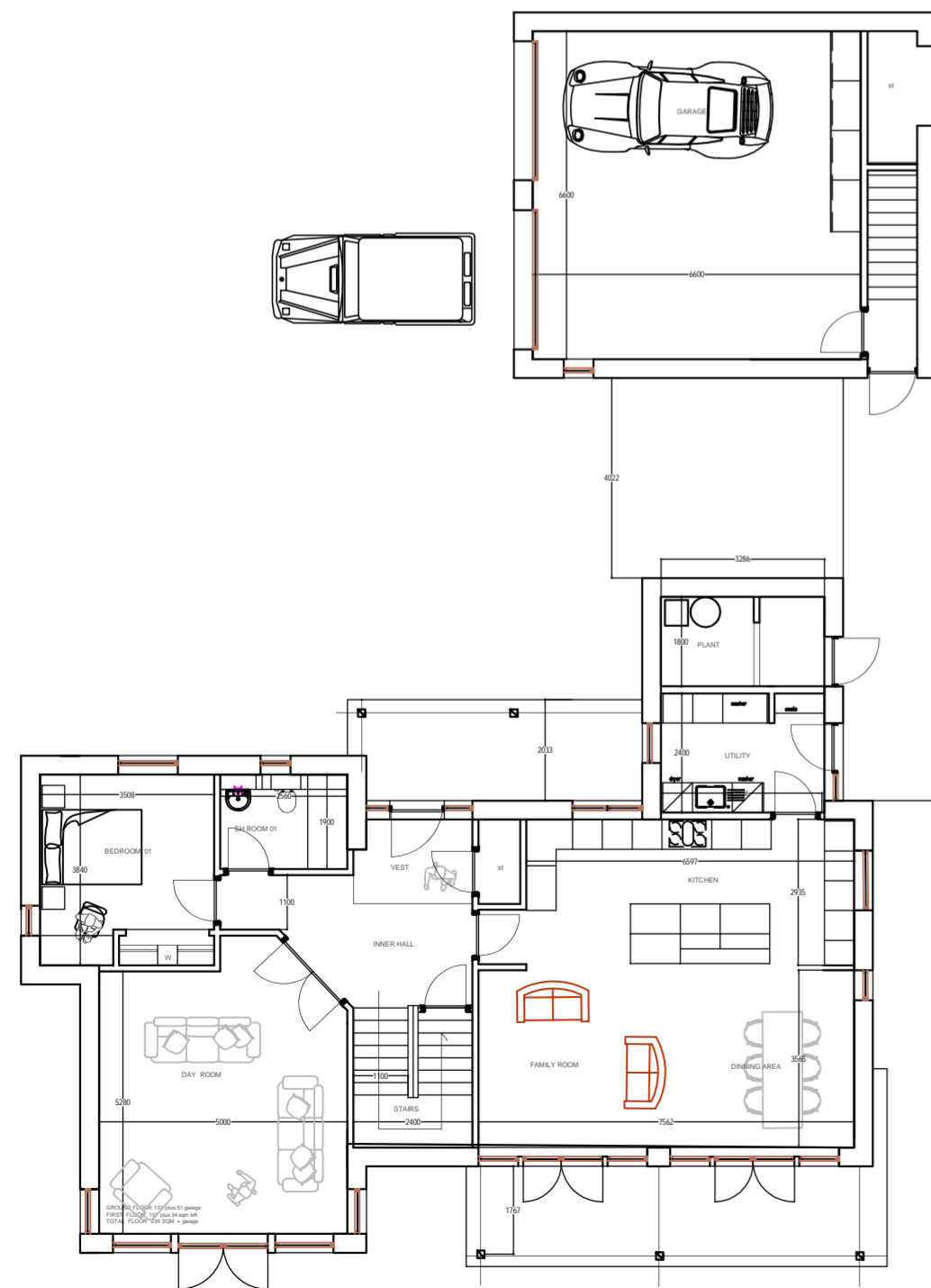
FACIAS & GUTTER  
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SILVER



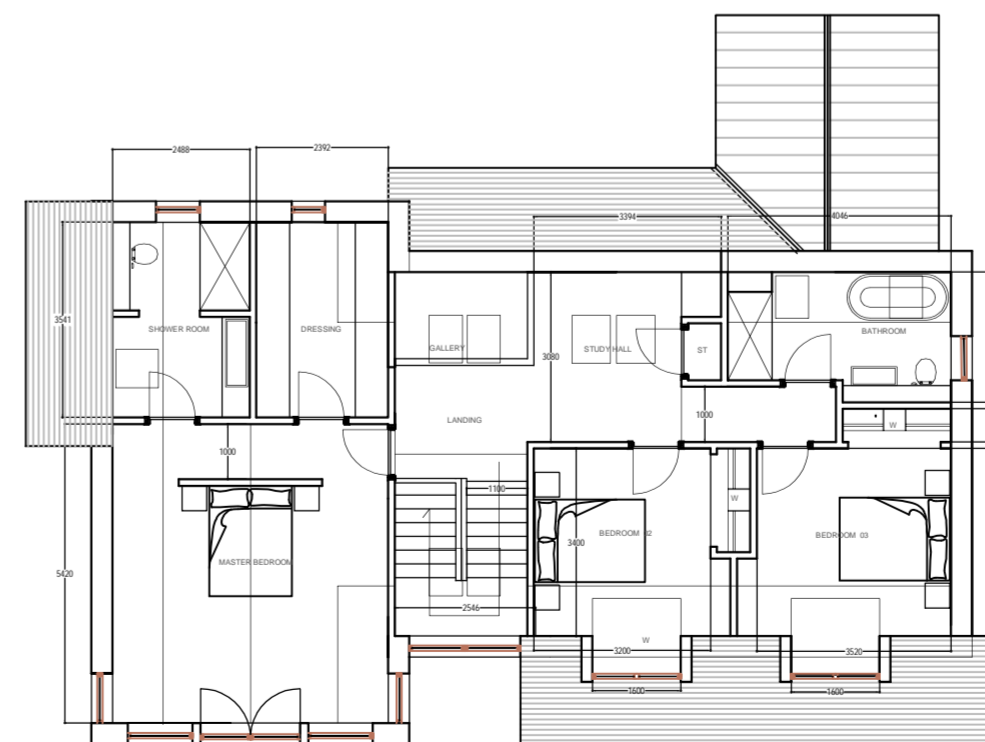
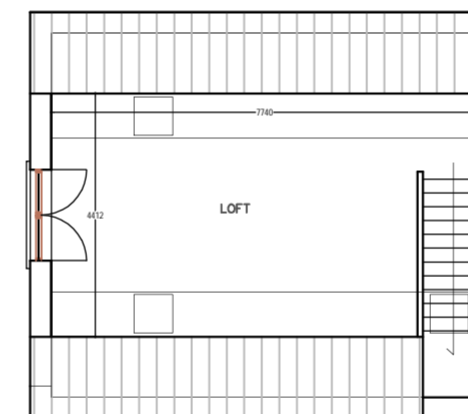
05 NORTH WEST ELEVATION 1:100



06 NORTH EAST ELEVATION 1:100



01 GROUND FLOOR PLAN 1:100



02 FIRST FLOOR PLAN 1:100

**MRH design**  
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Client:  
Mr Kevin & Mrs Sonia MacKay

Project:  
Craft Land  
1 Broallan, Kilmorack Beaulay IV4 7AH

Description:  
Proposed Private Dwelling and Garage

Scale: A1 Project No: 2017-31

Date: Oct 2017 Drawing No: 17-33-MRH-2

Drawn By: M.R.H.

rev: