

Agenda item	<b>5.4</b>
Report no	<b>PLN/064/18</b>

## THE HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 16 October 2018

**Report Title:** 18/03435/FUL Rockview, 11 Shore Street, Hilton, Tain.

**Report By:** Area Planning Manager – North

### 1. Purpose/Executive Summary

**1.1 Applicant:** Mr S McCarthy

**Proposal:** Erection of boundary wall to allow flood protection and extension of garden

**Ward:** 07 – Tain and Easter Ross

**Category:** Local

**Reason Referred to Committee:** 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.

### 2. Recommendation

**2.2** Members are asked to agree the recommendation to approve as set out in section 11 of the report.

### 3. PROPOSED DEVELOPMENT

3.1 The proposal is to extend the existing garden by 1.5m to the east (seawards) and erect a new 1m high boundary wall to protect the garden from flooding.

3.2 **Variations:** None

### 4. SITE DESCRIPTION

4.1 The site lies to the seaward side of 11 Shore Street and is accessed by the public road network in the village and thereafter via a grassy (predominantly pedestrian) track leading to the top of the beach.

There is a Core Path (RC42.05) and claimed right of way on land to the east of the existing garden. The Core Path follows the line of coastal rock armour wall in the area.

### 5. PLANNING HISTORY

5.1 18/03433/FUL - Erection of garden room– Approved on 28<sup>th</sup> September 2018.

### 6. PUBLIC PARTICIPATION

6.1 Advertised : No Advert -

Representation deadline : 30 August 2018

Timeous representations : 5 Objections from 3 Households

Objection from Community Council

Late representations : 0

6.2 Material considerations raised are summarised as follows:

- Reduction in width of existing footpath and therefore ability to undertake improvements to, and clearance of sea defences from the path
- Access and contravention of Core Paths Regulations

6.3 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 Development and Infrastructure Service offices.

### 7. CONSULTATIONS

7.1 **Access Officer:** It is noted that part of the coastal path lies adjacent to a Core Path (RC42.05). The Access Manager has advised that the proposed work would encroach on the land currently available to the Core Path and claimed public Right of Way. However, a minimum path width of 3m at its narrowest point only (southern end) must be maintained; this goes some way to conforming with path guidelines on new developments. A condition will be applied in respect of maintenance of 1.5m to either side of the current centreline of the worn path surface.

7.2 **Transport Planning:** No comment to make on the proposal.

### 7.3 **Community Council:** Object.

- Reduction in width of existing Core Path
- Restrict plant access, possible prevention of emergency storm damage clearance, storm protection maintenance for other properties between 11 Shore Street and Hilton Harbour

*Planning comment* - Representatives of the Community Council have recently been in talks with the Council's Access Manager and met on site shortly before the Community Council went into abeyance. A letter from the Chairperson was received the day before the abeyance commenced.

## 8. **DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### 8.1 **Highland Wide Local Development Plan 2012**

Policy 28            Sustainable Design

Policy 64            Flood Risk

Policy 77            Public Access

### 8.2 **Inner Moray Firth Local Development Plan (2015):**

No site specific policies

## 9. **OTHER MATERIAL CONSIDERATIONS**

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

Sustainable Design Guide (Jan 2013)

Flood Risk and Drainage Impact Assessment (Jan 2013)

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

Scottish Planning Policy (June 2014)

## 10. **PLANNING APPRAISAL**

10.1 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.

10.2 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.

10.3 The house is located to the west side of Shore Street, with an existing garden to the east of the street, between the house/road and sea. The garden has an existing block wall fronting onto the sea. The area between the wall and sea has a path (the Core Path (RC42.05)) which provides informal access and recreation along the coast.

- 10.4 The proposal seeks to increase the size of the garden by 1.5m seawards, and enclose this enlarged garden with a new rendered concrete block wall, similar to the existing and other nearby garden walls, to the same 1m height as the existing wall.
- 10.5 The development site forms part of the title holding of the applicant and if approved will allow limited, additional garden space and a wall providing flood protection to this area of land.
- 10.6 The site is located within the Settlement Development Area (SDA) of Hilton of Shandwick village, as defined by the Inner Moray Firth Local Development Plan. The proposal does not conflict with the provisions of the development plan.
- 10.7 The Highland Wide Local Development Plan, Policy 28 – Sustainable Design, notes that a developments' impact should not be detrimental to individual and community residential amenity.
- 10.8 Development Plan Policy 64 Flood Risk notes that proposals should avoid areas susceptible to flooding and promote sustainable flood management. The Planning Authority notes that the applicant is addressing concern in respect of flood risk by erecting a flood barrier (wall) to his property.
- 10.9 Development Plan Policy 77 Public Access identifies that where a proposal affects a Core Path, there is a requirement to:
- retain the existing (Core) path while maintaining or enhancing its amenity value; or
  - ensure alternative access provision that is no less attractive, is safe and convenient for public use and does not damage or disturb species or habitats.
- 10.10 The Council's Access Officer has advised that the resultant width of the Core Path (RC42.05) lying adjacent to the site must be maintained to a minimum width of 3m at its narrowest point only (southern end) to the boundary wall. For the avoidance of doubt, the width shall be measured as 1.5m to either side of the current centreline of the worn path surface, and that the path should not be obstructed or access deterred at any time before, during or after construction, such as by:
- i. The placing of materials on the path
  - ii. Allowing water, soil or any other substance to flow or spill onto the path
  - iii. Erecting any fence or locked gates
  - iv. Prohibitory signs or notices
  - v. Park vehicles or place other structures; and

that any damage to the route must be repaired to as good or better a standard than pre-development.

It is considered that matters relating to the Core Path can be controlled by condition.

## 10.11 **Material Considerations**

Representations on the proposal relate to

- Reduction in width of existing Core Path; and Restrict plant access, possible prevention of emergency storm damage clearance, storm protection maintenance for other properties between 11 Shore Street and Hilton Harbour – *Planning Response* – It is acknowledged that the Core Path corridor has been previously used to allow access for undertaking clean up operations and repairs following a storm event. However the reduction to 3m in width will still allow for the passage of machinery in this respect. It is noted that excavator repairs to the rock armour sea defences have previously been undertaken from the beach area.

## 10.12 **Other Considerations** – None

## 11. **Conclusion**

11.1 The site is currently part of an open area of land over which a Core Path crosses; it is within the ownership of the applicant. The concerns of residents and the Community Council are noted. However, it is considered that the proposal will not have an unacceptable impact on the existing public access provision. Accordingly, the proposal complies with the Development Plan policies.

11.2 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 is acceptable in terms of all other applicable material considerations.

## 12. **IMPLICATIONS**

12.1 Resource – Not applicable

12.2 Legal –Not applicable

12.3 Community (Equality, Poverty and Rural) –Not applicable

12.4 Climate Change/Carbon Clever –Not applicable

12.5 Risk – Not applicable

12.6 Gaelic – Not applicable

## 13. **RECOMMENDATION**

<b>Action required before decision issued</b>	<b>N</b>
Notification to Scottish Ministers	<b>N</b>
Notification to Historic Scotland	<b>N</b>
Conclusion of Section 75 Agreement	<b>N</b>

Revocation of previous permission **N**

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

1. The Core Path (RC42.05) lying adjacent to the site shall be maintained to a minimum width of 3m at its narrowest point only (southern end) to the boundary wall. For the avoidance of doubt, the width shall be measured as 1.5m to either side of the current centreline of the worn Core Path surface, and that the path shall not be obstructed or access deterred at any time before, during or after construction, such as by:
  - i. The placing of materials on the path
  - ii. Allowing water, soil or any other substance to flow or spill onto the path
  - iii. Erecting any fence or locked gates
  - iv. Prohibitory signs or notices
  - v. Park vehicles or place other structures; and

that any damage to the route shall be repaired (to as good or better a standard than pre-development) to the satisfaction of the Planning Authority within 3 months from the completion of the wall, or such other time period as may be agreed in writing with the Planning Authority.

**Reason:** To comply with the Council's statutory duty to uphold access rights and for the avoidance of doubt.

## **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.

### **Accordance with Approved Plans and 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 (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

### **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

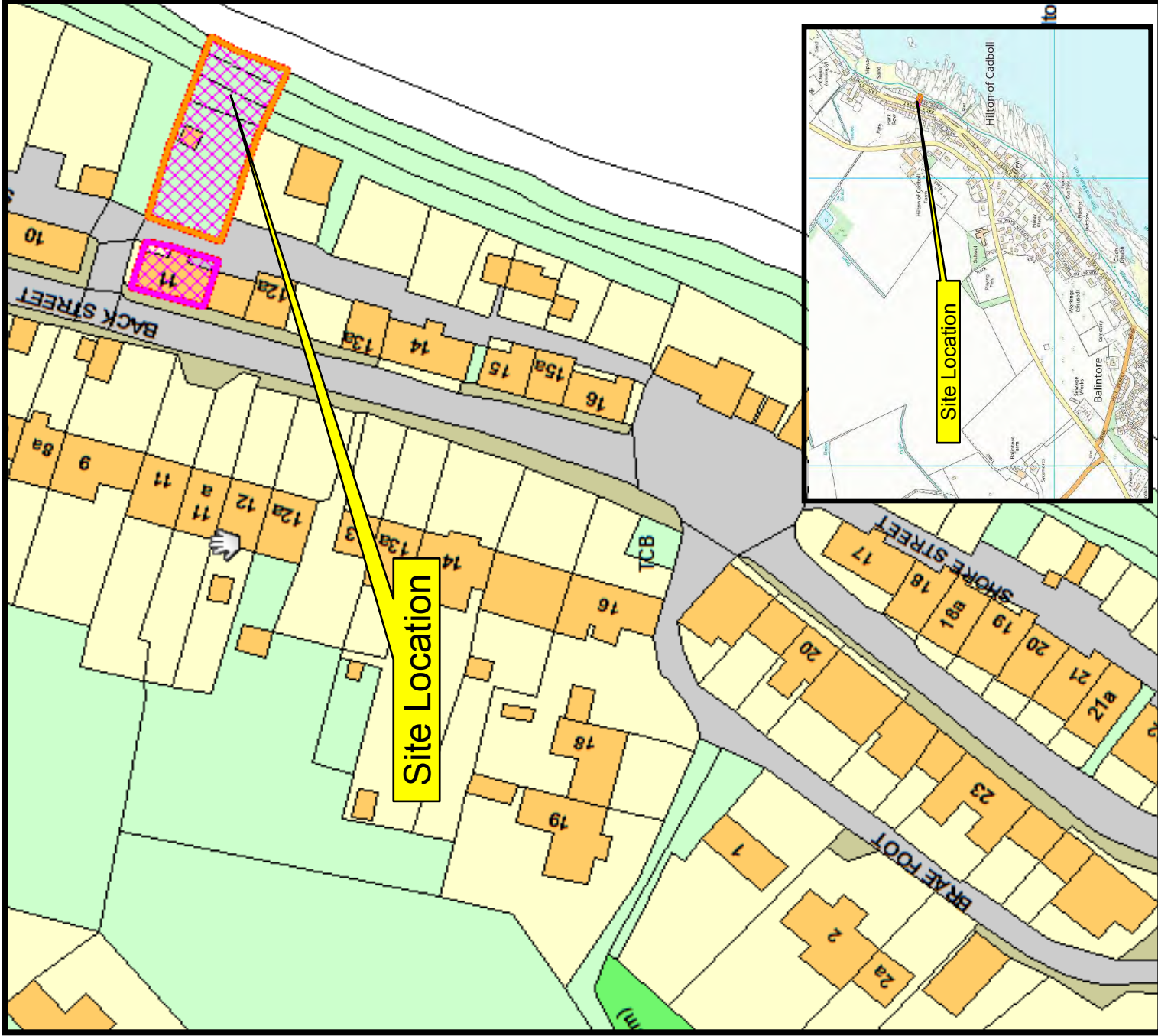
Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact [env.health@highland.gov.uk](mailto:env.health@highland.gov.uk) for more information.

### **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)

Designation: Area Planning Manager - North  
Author: David Borland  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Map  
Plan 2 – Location Plan  
Plan 3 – Site Layout Plan  
Plan 4 – Elevation Plan  
Plan 5 – Photo / Visual Information





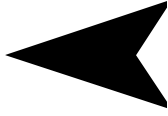
Development & Infrastructure  
Service

**18/03435/FUL**

Erection of boundary wall to allow flood protection  
and extension of garden boundary wall at  
Rockview, 11 Shore Street, Hilton, Tain, IV20 1XD

October 2018

N





LAND REGISTER  
OF SCOTLAND

Officer's ID / Date

5397  
9/7/2013

TITLE NUMBER

**ROS6848**



ORDNANCE SURVEY  
NATIONAL GRID REFERENCE

140m

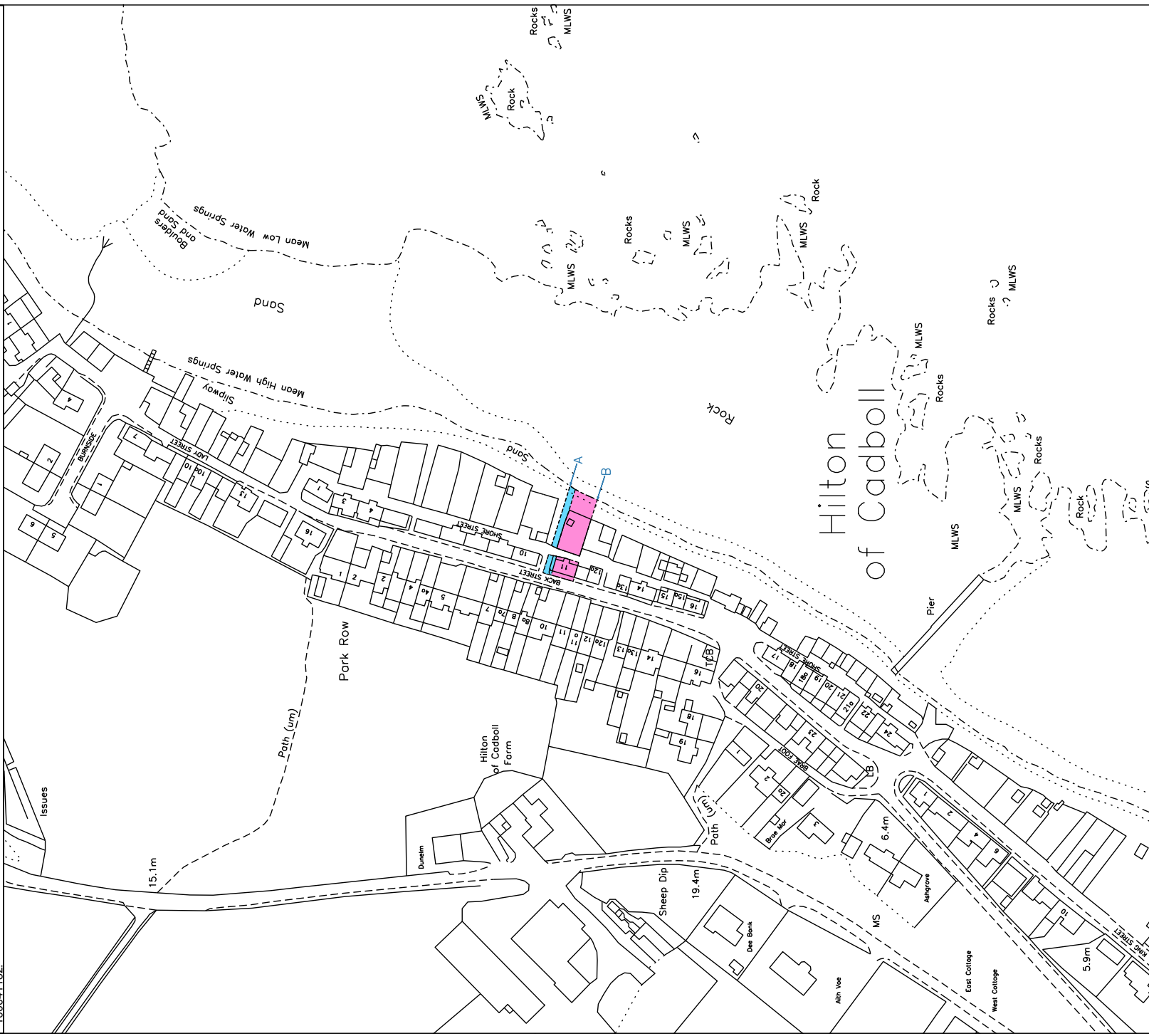


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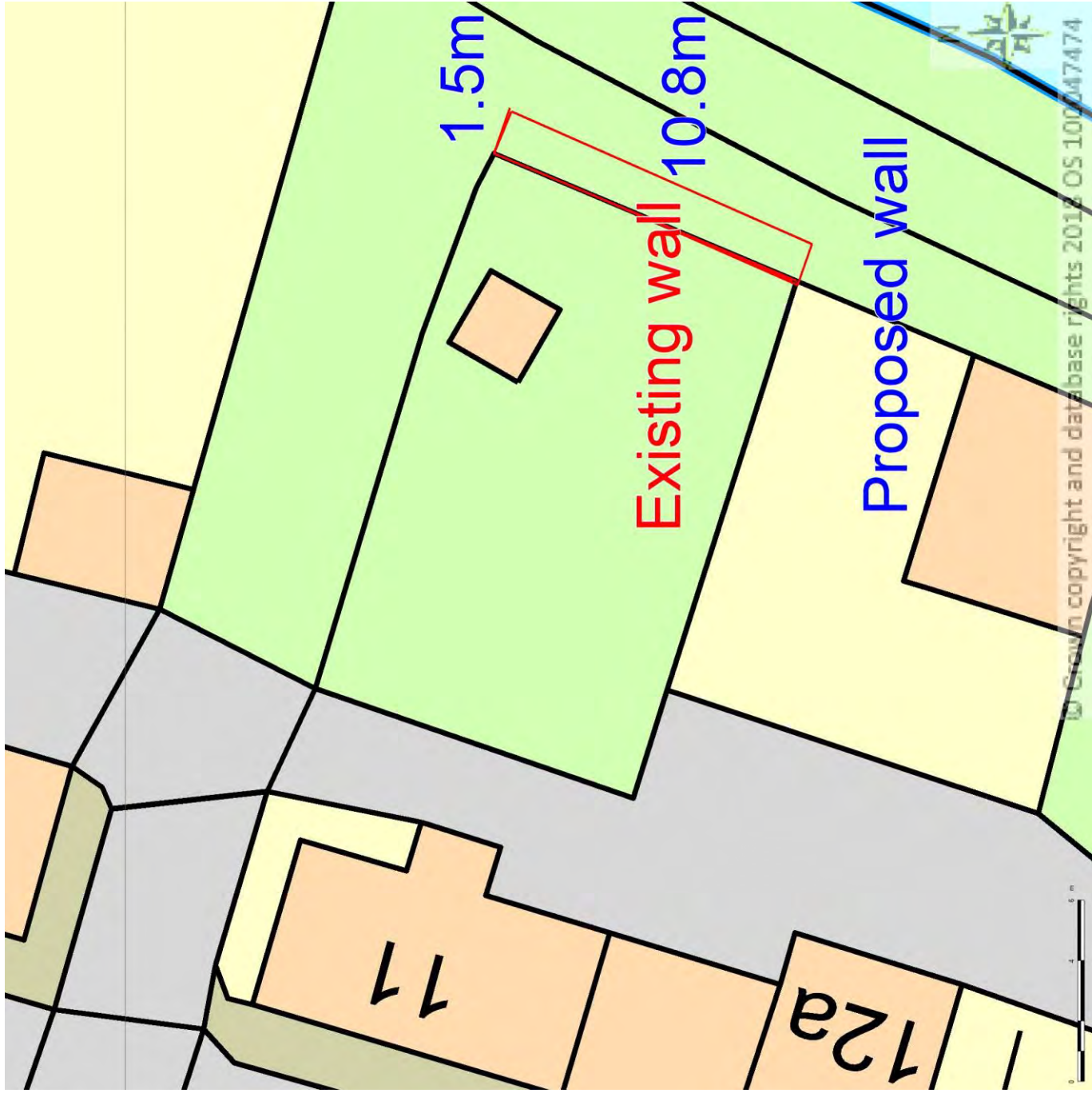
Survey Scale

1/2500

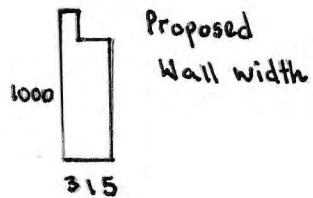
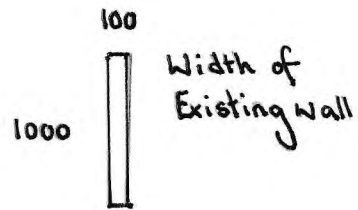
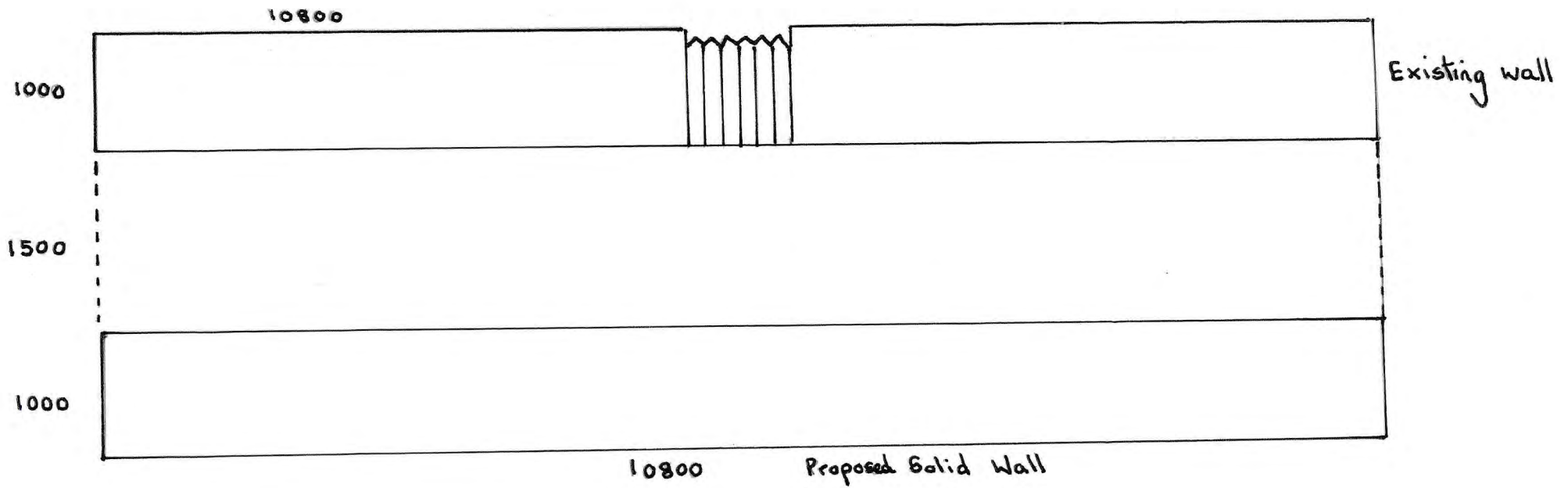
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BLOCK/SITE PLAN  
AREA 36m x 36m  
SCALE 1:200 on A4  
CENTRE COORDINATES: 287270, 876486



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Materials : • Tarmac Topcrete Standard Block  
7.0N 440 x 215 x 100 mm

- Coping stones on outer course of wall
- Render exterior and interior

Scale; 1:50

Existing and Proposed Elevations for Wall development; 11 Shore Street, Hilton, IV201XD

Proposed changes to wall: 11 Shore Street Hilton, IV20 1XD.

Existing garden wall



Proposed wall design

