

Agenda item	7.7
Report no	PLN/076/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 27 November 2018

Report Title: 18/02836/FUL 10 Shore Street, Shandwick, Tain

Report By: Area Planning Manager – North

1. Purpose/Executive Summary

1.1 **Applicant:** Mr D Ross

Proposal - Change of Use of land to form garden ground. Erection of 1.8m high fence (in retrospect) and widening of road

Ward: 07 – Tain and Easter Ross

Category: Local

Reason Referred to Committee: Community Council Objection – Managers discretion.

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 change the use of current vacant land to domestic garden and parking area. Retrospective permission is also sought for a 1.8m high fence to the eastern boundary of the current garden of 10 Shore Street. Widening of the public road is additionally proposed.

3.2 **Variations:** None

4. SITE DESCRIPTION

4.1 The site, which is formed from a low coastal dune area, lies to the western road verge of Shore Street, and to the eastern boundary of the garden ground of 10 Shore Street, Shandwick, and within vacant land adjacent. The site is accessed by the public road network in the village. There is a claimed right of way within the southern part of the site, parallel to a garage within the existing garden ground.

5. PLANNING HISTORY

- 5.1
- 17/05239/FUL – Erection of extension – Approved 26th January 2018
 - 18/01003/FUL – Erection of fence (in retrospect) – Withdrawn June 2018
 - 18/01503/FUL – Change of use of land to form garden ground and erection of fence – Withdrawn 13th June 2018
 - 18/02902/FUL – Duplicate of current application (closed 17th August 2018)

6. PUBLIC PARTICIPATION

6.1 Advertised : No Advert -

Representation deadline : 19th October 2018

Timeous representations : • 2 Objections

Late representations : 0

6.2 Material considerations raised are summarised as follows:

- Narrow road being restricted further
- Access and loss of claimed “right of way”
- Parking on road

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. Access to computers can be made available via Development and Infrastructure Service offices.

7. CONSULTATIONS

7.1 **Access Officer:** The land proposed for the development currently has no designated access routes but general access rights are applicable. However, further to earlier comment, given that this land is only extending 7 metres into the open land with access rights, then it is likely not to be reasonable to expect the

applicant to provide access across that land. Should the land to the north be developed at a future date then an access route between Shore Street and the beach path must be accommodated, most likely along the northern boundary of this extended property.

7.2 **Transport Planning:** Following a site visit – no objection in principle to the works proposed subject to advised conditions.

7.3 **Community Council:** Nigg and Shandwick Community Council - Object

- Lack of acknowledgement of existence of historical access
- Ownership
- Fence (retrospective application). NaSCC support original objection by Transport Planning.

Neighbouring Community Council: Balintore and Hilton Community Council - Support

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 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)

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 site is located to the eastern boundary of the garden ground of No.10 Shore Street, Shandwick and also land to the east of the public road, north of the garage

associated with No.10 Shore Street, Shandwick. The site comprises the southern part of a larger area of open land which has been vacant for several years. A claimed “right of way” / “desire line” runs through the site from the Shore Street to the beach car park to the east.

- 10.4 The proposal seeks to change the use of part of this open area of land to garden ground and provide additional access to a domestic garage. In addition, retrospective permission is sought for the erection of a 1.8m high fence along the western edge of Shore Street.
- 10.5 The development proposal also includes the widening of a short section of the public road of approximately 18m length to the eastern side of Shore Street from the northern corner of the proposed new vehicle access point. This is to be carried out by the developer. The Council’s Road Engineers have assessed these works as being acceptable. The widening will provide a wider public benefit to those using this minor local access road.
- 10.6 The site lies within the Settlement Development Area (SDA) of Shandwick village, as defined by the Inner Moray Firth Local Development Plan. It is not considered that the proposal conflicts with the provisions of this.
- 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 The Shandwick beach Core Path (RC42.02) runs north to south along the coast, and to the east of the public beach car park, which itself is to the east of the application site. Accordingly, it is not considered that the proposal impacts the Core Path and therefore accords with Development Plan policy 77 Public Access.
- 10.9 The Council’s Access Officer has advised that there is no officially recognised access across the site of application. However, a “right of way” has been claimed by objectors and supported by their community council. Given that this land is only extending 7 metres into the open land with access rights, then it would not be reasonable to expect the applicant to provide access across that land. However should the land to the north be developed at a future date then an access route between Shore Street and the beach path would be sought, most likely along the northern boundary of this extended property. Currently there are two alternative routes to the beach car park within reasonable walking distance of the claimed route and as such, it is considered that the loss of the claimed route does not prejudice public access in this instance and is therefore acceptable.

10.10 **Material Considerations**

Representations on the proposal relate to

- Loss of Public Access to the beach car park – *Planning Response* – It is possible to access between Shore Street and the beach car park over routes outwith the application site, of better quality, and within easy walking distance.
- Narrow Road and Road Verge Loss – *Planning Response* – It is acknowledged that the road is single track. However, following a site inspection with colleagues from Transport Planning, it is clear that there is

no significant traffic flow issue. In any event, part of this application is for the widening of the public road to Council Standards which will increase the existing width and provide verges of the appropriate proportion.

10.11 **Other Considerations – Not Material**

- Land Ownership
- Impact on / Loss of view
- Use of Garden

11. Conclusion

11.1 The site is shared between a garden boundary and an open area of land adjacent over which a “claimed right of way /desire line” crosses. 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 as there are alternative nearby routes available. Furthermore, it is not considered that the proposal will have a significant or detrimental impact on the individual or community residential amenity and therefore accords with Development Plan policy 28 Sustainable Design. Accordingly, the proposal is considered to comply with the Development Plan policies. Whilst the erection of the 1.8m high fence prior to the submission of the application is regrettable, the application will regularise this.

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

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

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 works to widen Shore Street shall be undertaken by the developer and at their expense in accordance with Drawing No. GCN – 1222-002, docketed hereto. For the avoidance of doubt, the works shall be undertaken to include:
 - the proposed fence on the northern boundary of the application site shall be set back a minimum of 2m from the nearside carriageway edge.
 - any fences or gates on the western boundary of the application site shall be set back a minimum 2m from the carriageway edge and shall be no higher than 1m above adjacent carriageway level.
 - no water from the site shall discharge onto the adjacent carriageway.
 - there shall be no conflict with the works proposed and any existing services within the public road verge

The agreed works shall be undertaken within 6 months from the date of this permission, or an alternative timescale as may be agreed in writing with the Planning Authority, in consultation with the Roads Authority, due to adverse weather conditions.

Reason: In the interest of road safety 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.

Future Access

Should the land to the north be developed at a future date then an access route between Shore Street and the beach path must be accommodated, most likely along the northern boundary of this extended property.

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.

Road Construction

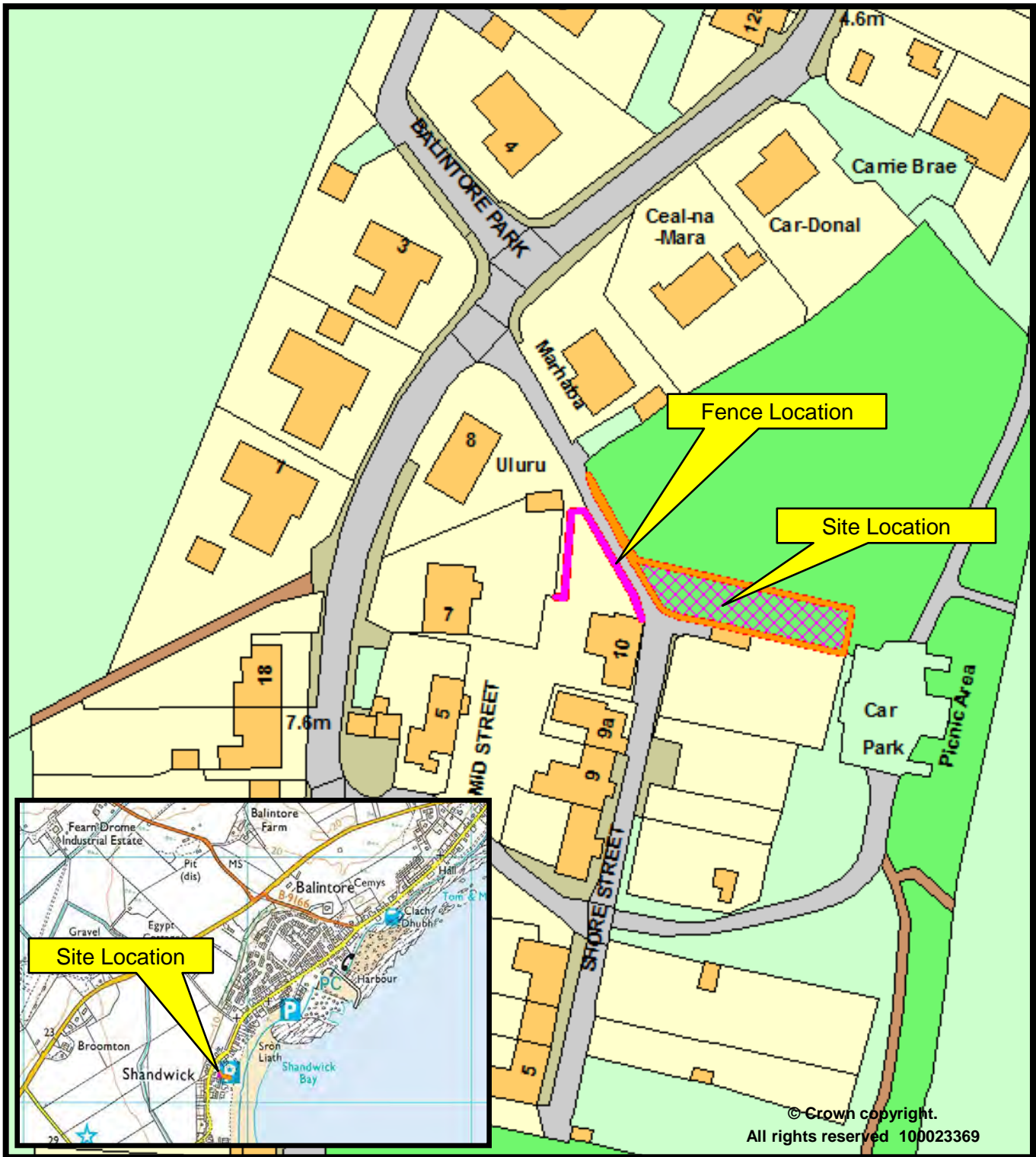
All works within or alongside the public road shall not commence until appropriate permission from the Roads Authority shall have been granted. Permit application enquiries should be made via the council's website, www.highland.gov.uk, or by contacting general enquiries, tel. no. 01349 886606.

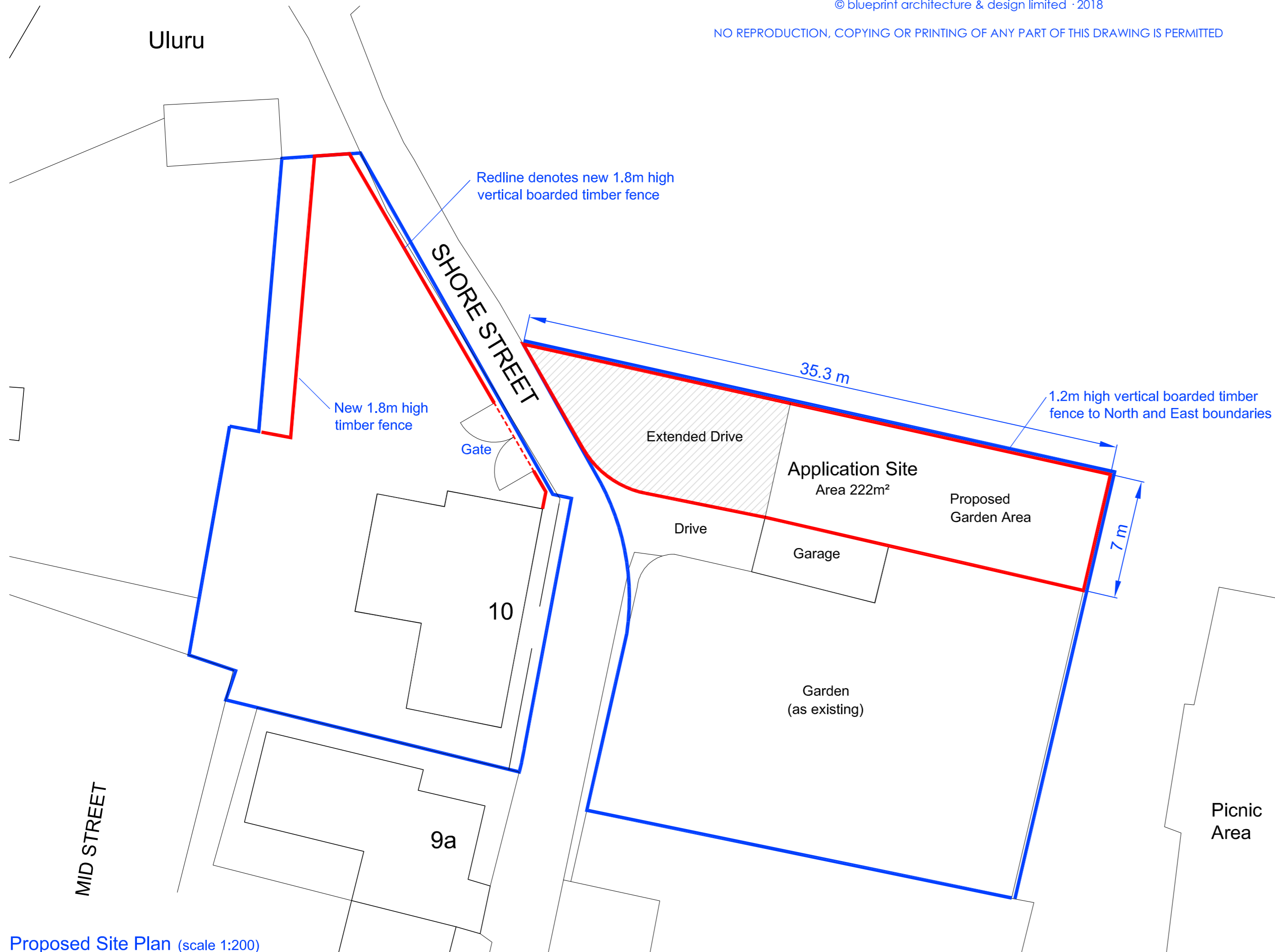
The detailed requirements of all works affecting the public road shall be agreed through the permit application process.

Protected Species – Halting of Work

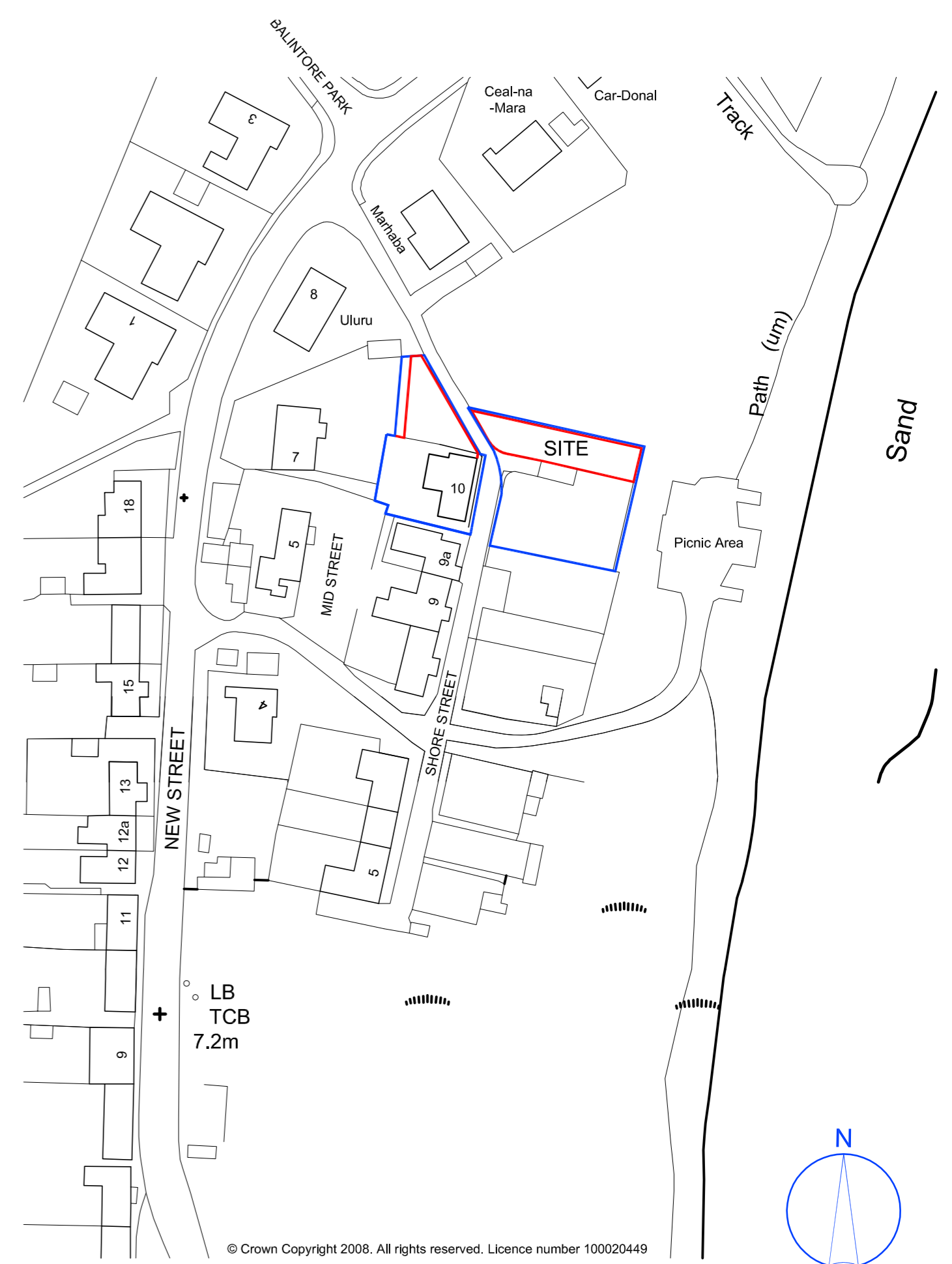
You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance 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

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 / Site Layout
Plan 3 – General Plan
Plan 4 – Swept Path Analysis (005)
Plan 5 – Swept Path Analysis (006)



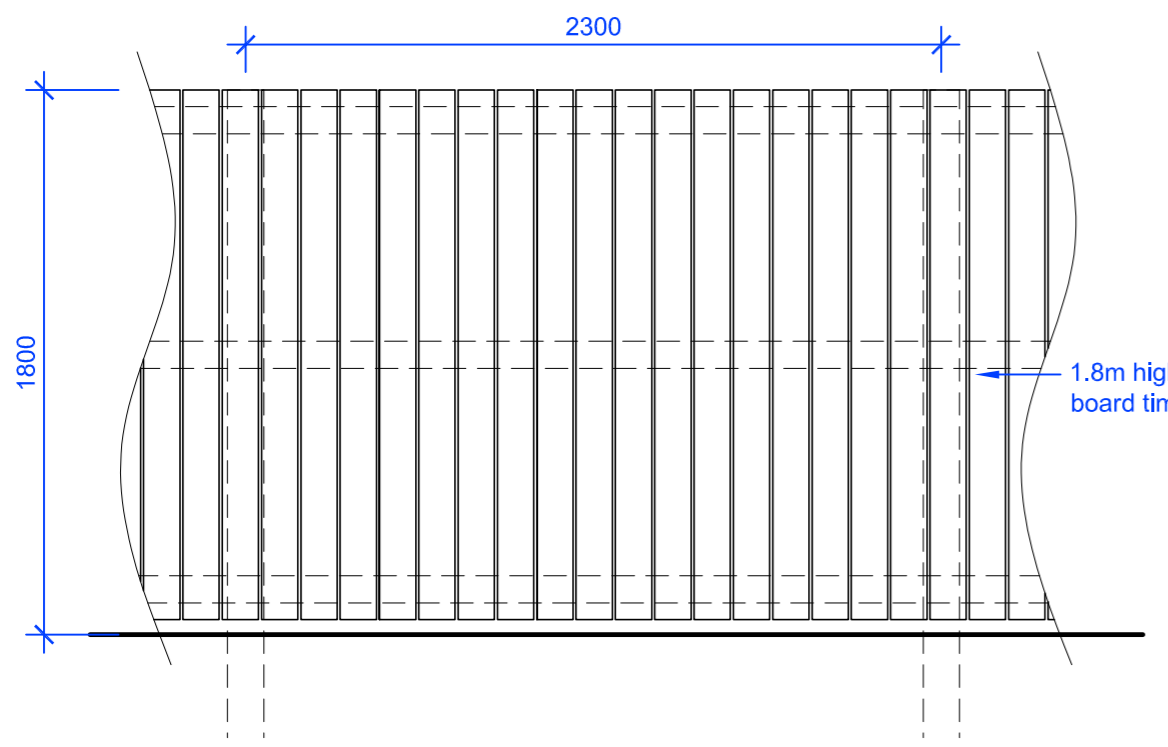


Proposed Site Plan (scale 1:200)

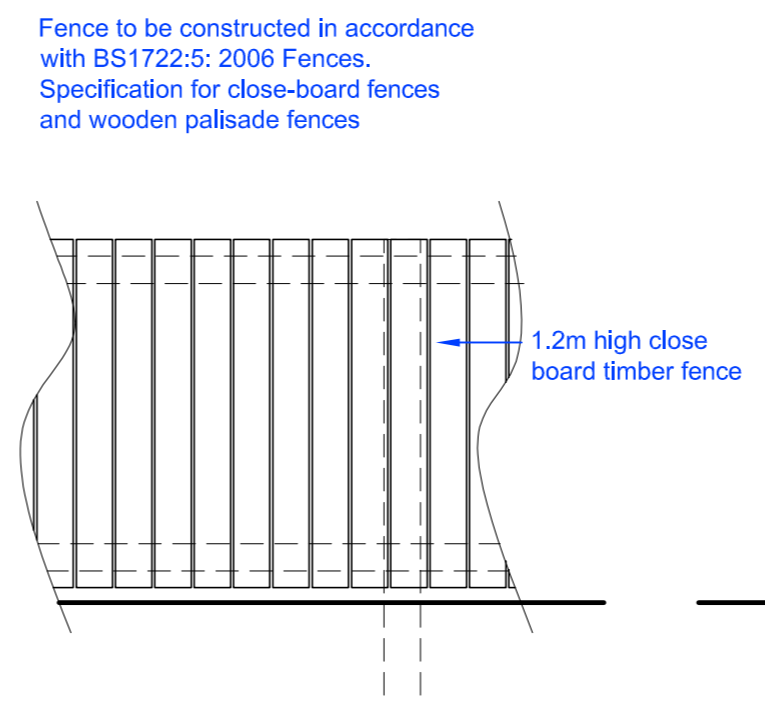
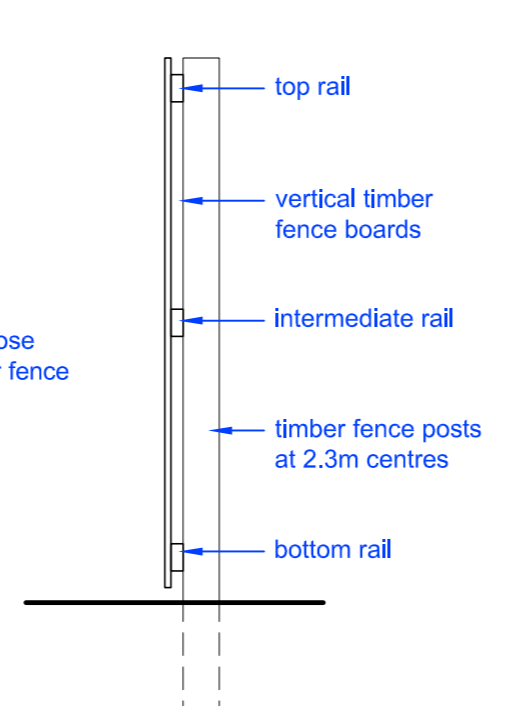


Location Plan (scale 1:1000)

SHANDWICK, TAIN



Typical 1.8m high Fence Elevation & Section (scale 1:25)



Typical 1.2m high Fence Elevation & Section (scale 1:25)

Fence to be constructed in accordance with BS1722-5: 2006 Fences. Specification for close-board fences and wooden palisade fences

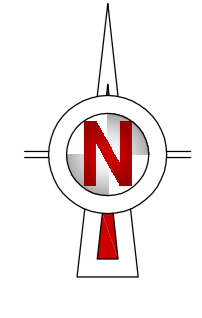
PLANNING APPLICATION ISSUE DRAWING

blueprintarchitecture

RIBA CHARTERED ARCHITECTS
8 TOWER STREET | TAIN | ROSS-SHIRE | IV19 1DY
MAIL@BLUEPRINTARCHITECTURE.COM | 01862 892900

Client	Mr David Ross	Scale	Noted A2
Project	Change of Use of Land to Garden Ground at 10 Shore Street, Shandwick, Tain, IV20 1UU		
Title	Location Plan and Site Plan		
Drawing No.	R369 / PL12	Rev	-





BALINTORE PARK

Ceal-na
-Mara

Car-Donal

NEW STREET

MID STREET

SHORE STREET

Marhaba

Existing Bitmac to be
Removed to Create
Grass Verge

Proposed New Area of Bitmac,
Existing New Fenceline to Realigned
to Suit Proposed New Parking Plan.

18

7.6m

7

5

10

9a

9

15

2.672m

2.777m

2.786m

2.562m

2.599m

3.860m

3.180m

3.013m

2.652m

2.739m

3.128m

3.400m

0.835m

3.113m

3.400m

3.068m

3.400m

3.400m

3.400m

4.536m

3.728m

3.527m

3.573m

3.945m


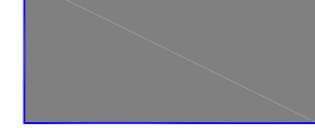


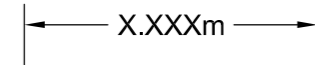

3.945m

2.913m

3.445m

3.711m

Plan Legend

-  Existing Bitmac Surface
-  Proposed Bitmac Surface
-  Proposed Bitmac Removal
-  Proposed New Road Alignment
-  Existing Widths
-  Proposed Width (3.4m)

Client:
Mr David Ross
10 Shore Street
Shandwick
Tain
IV20 1UU

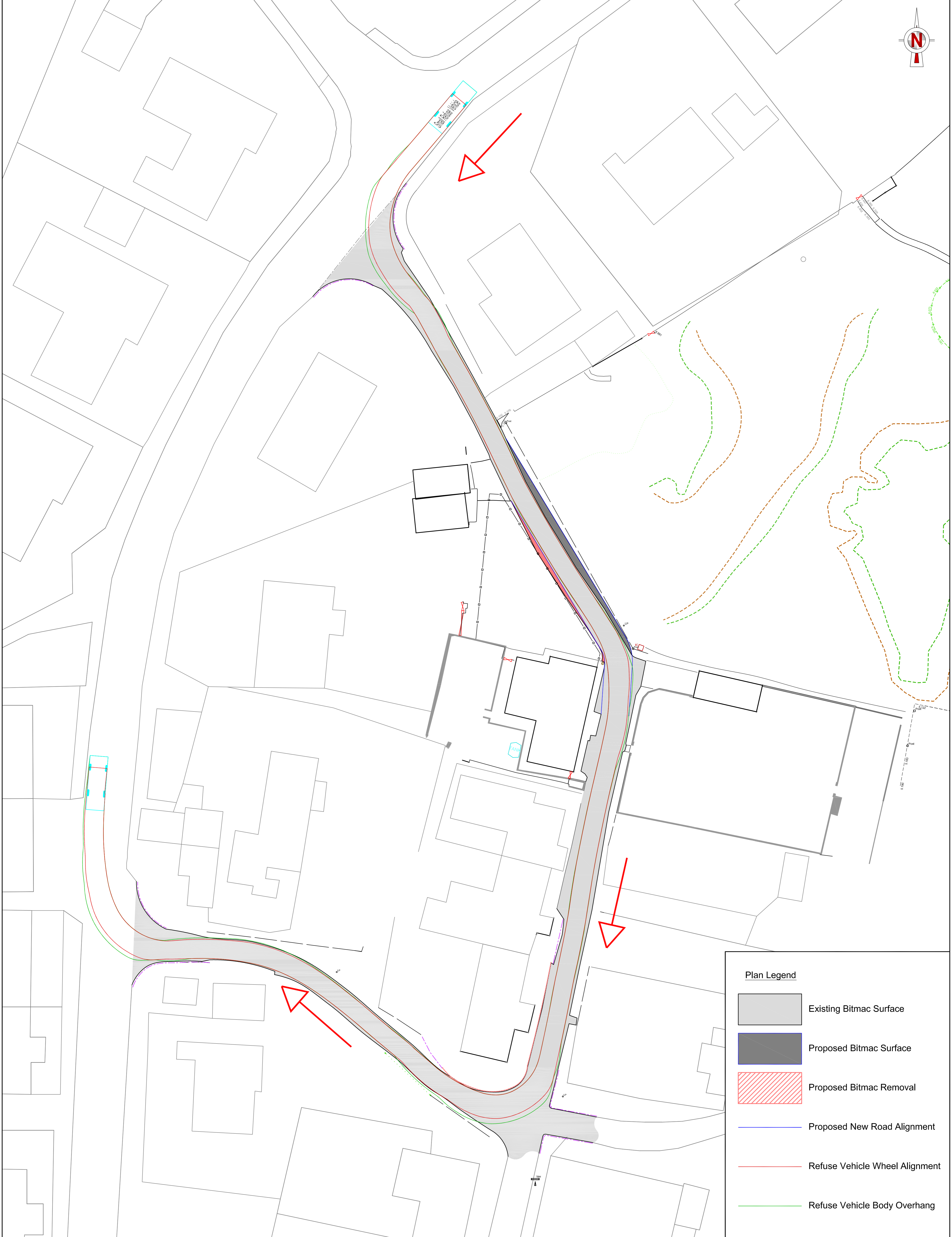
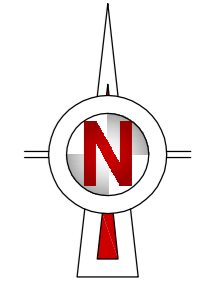
Site Layout:
Topographical Survey
& Proposed Roads Upgrade Plan
Land at Shore Street
Shandwick
Tain
IV20 1UU


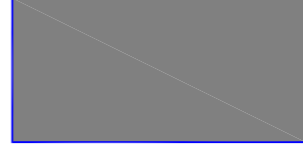




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Drawing Date: 25/07/2018		Our Job Ref:	Rev:

Drawing Status:

- FOR APPROVAL
- FOR ISSUE
- FOR DISCUSSION
- DRAFT STATUS

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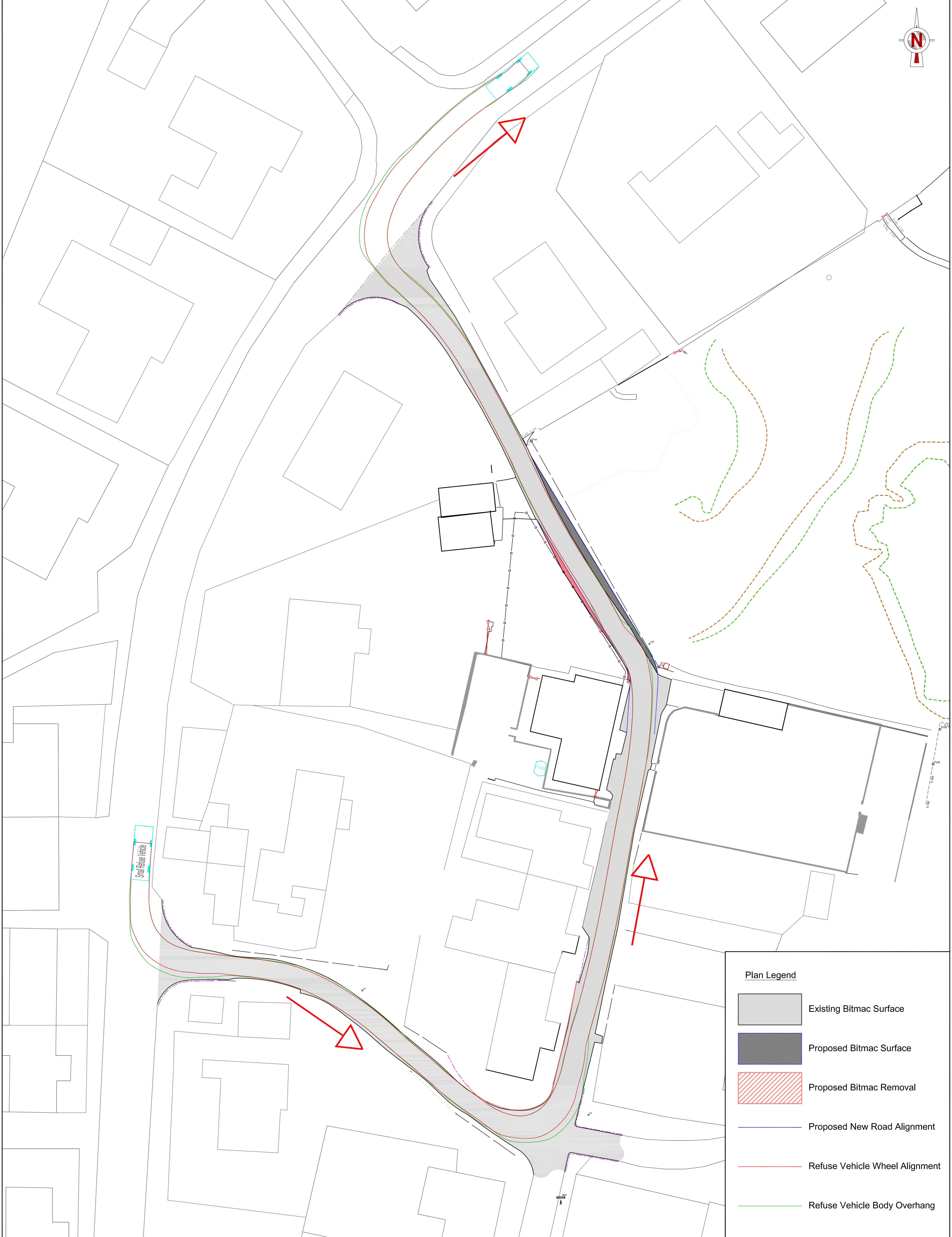
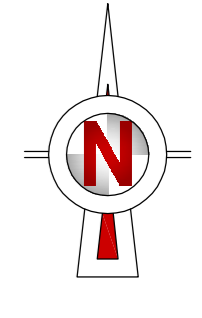
Plan Legend	
	Existing Bitmac Surface
	Proposed Bitmac Surface
	Proposed Bitmac Removal
	Proposed New Road Alignment
	Refuse Vehicle Wheel Alignment
	Refuse Vehicle Body Overhang


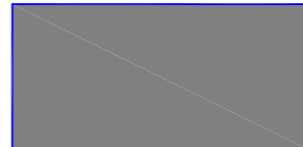




A1 Do Not Scale (If in Doubt Ask)

Client:
 Mr David Ross
 10 Shore Street
 Shandwick
 Tain
 IV20 1UU

Site Layout:
 Vehicle Autotrack Analysis (Refuse Lorry)
 Land at Shore Street
 Shandwick
 Tain
 IV20 1UU
 Northern Entry Driving Southwards

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25/07/2018		GCN-1222-005		
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25/07/2018				



Plan Legend	
	Existing Bitmac Surface
	Proposed Bitmac Surface
	Proposed Bitmac Removal
	Proposed New Road Alignment
	Refuse Vehicle Wheel Alignment
	Refuse Vehicle Body Overhang

A1 Do Not Scale (If in Doubt Ask)

Client:
Mr David Ross
 10 Shore Street
 Shandwick
 Tain
 IV20 1UU

Site Layout:
Vehicle Autotrack Analysis (Refuse Lorry)
 Land at Shore Street
 Shandwick
 Tain
 IV20 1UU
 Southern Entry Driving Northwards

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25/07/2018		GCN-1222-006	
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25/07/2018			

Drawing Status:

FOR APPROVAL

FOR ISSUE

FOR DISCUSSION

DRAFT STATUS

• Levels are in metres and are to Ordnance Datum.
 • Co-ordinates are to National Grid. (GPS Network)