

| | |
|-------------|-------------------|
| Agenda Item | 7.8 |
| Report No | PLN/055/19 |

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 4 June 2019

Report Title: 19/00925/FUL: Mr and Mrs Jahan Shahab
2 The Orchard, Ness Road, Fortrose, IV10 8SD

Report By: Acting Head of Development Management

1. Purpose/Executive Summary

1.1 Description: Change of use and erection of extension to garage to form self-contained residential unit

Ward: 09 - Black Isle

Development category: Local Development

Reason referred to Committee: Discretion of Acting Head of Development Management

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 Grant planning permission as set out in section 11 of the report.

3. PROPOSED DEVELOPMENT

- 3.1 Consent is sought to extend and convert a detached single garage within the curtilage of 2 The Orchard to a self-contained residential unit. The development is proposed to be used for ancillary accommodation purposes and short term holiday letting.
- 3.2 Pre Application Consultation: None.
- 3.3 Supporting Information: Statement in Support of Planning Application.
- 3.4 Variations: None.

4. SITE DESCRIPTION

- 4.1 The application site is located at the junction between The Orchard and Ness Road and is bounded by Sandwood and 4 Ness Way to the southeast, 1 The Orchard to the southwest and 3 and 4 The Orchard to the northwest. The 34sqm garage measures 4.4m in height to the ridge of a pitched concrete tile roof and sits to the south of 2 The Orchard. The roller doors, as well as a separate pedestrian access, and single window are located on the northwest and northeast elevations respectively.

5. PLANNING HISTORY

- 5.1 No relevant history

6. PUBLIC PARTICIPATION

- 6.1 Advertised: No.
Date Advertised: N/A.
Representation deadline: 11 April 2019
Timeous representations: 1
Late representations: None.

- 6.2 Material considerations raised are summarised as follows:

Fortrose and Rosemarkie Community Council

The proposal to convert a garage into a dwelling house, including extending the building represents overdevelopment of the site. The existing house and garage are of a scale and layout which is compatible with the surrounding development. A separate dwelling in this location would be out of keeping in scale and character, and would result in a congested appearance.

A better and more appropriate solution to the applicants' desire to create additional living space would be to extend the existing house, thereby maintaining the current situation of a single dwelling on the site.

- 6.3 Planning Response: Whilst the built proportion of the application site shall increase, the 18sqm enlargement of an existing single-storey garage is not regarded to be excessive. The development shall be located upon a gravelled area which is currently used as an informal refuse storage area and it would appear that any extension to the house would require the loss of garden ground more suitable for private amenity purposes. There will be no significant increase in height to ridge and the development shall be appropriately screened by the existing house to the north, hedging lining a path outwith the application site to the east and trees within the curtilage of 1 The Orchard to the south.
- 6.4 Agent Response: The built form of the existing house and garage account for 24.5% of the plot. The proposal will increase the built form to 26%; an increase of 1.5%. Had an extension of a similar scale been proposed to the house, it would have reduced the level of garden ground. Re-use of a garage not being used for its original purpose was considered to be the most sustainable option and the design allows the garage to be returned to its predevelopment condition.
- 6.5 The house and garage formed part of the initial development of 2 The Orchard. The 3m wide addition to the garage is the only change being proposed in timber cladding and this has been done to accent the current garage. The extension is similar in scale and surrounding developmental character is variable. None of the proposal is overlooked. The 3m wide extension shall be screened by fencing and trees and no windows or doors are proposed on the side or rear elevations.
- 6.6 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.

7. CONSULTATIONS

- 7.1 **Development Plans Team** - No Response

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
31 - Developer Contributions
34 - Settlement Development Areas
44 - Tourist Accommodation

8.2 Inner Moray Firth Local Development Plan 2015

2 - Delivering Development Fortrose Settlement Development Area

8.3 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)
Developer Contributions (Nov 2018)
Sustainable Design Guide (Jan 2013)

9. OTHER MATERIAL POLICY CONSIDERATIONS

9.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, 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. 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

10.2 The key considerations in this case are:

- a) Compliance with the Development Plan and other planning policy;
- b) Impact on residential amenity; and
- c) Any other material considerations.

Development Plan/other planning policy

10.3 Policy 28 of the Highland-wide Local Development Plan sets out the requirement for all development to be designed in the context of sustainable development and climate change. It defines the principles by which all developments are assessed and the most relevant in this case is the extent to which it is compatible with public service provision, impacts on individual and community residential amenity and demonstrates sensitive siting and high quality design.

10.4 Policy 34 of the Highland-wide Local Development Plan states that proposals within Settlement Development Areas as defined by the Inner Moray Firth Local Development Plan will generally be supported if they meet the requirements of Policy 28 and any other policies identified as relevant to the application or land to which it relates. Settlement Development Areas are the preferred locations for most types of development.

10.5 Policy 44 of the Highland-wide Local Development Plan outlines the general support for tourist accommodation within Settlement Development Areas if the proposal can be accommodated without adverse impacts upon neighbouring uses, complies with Policy 28 and does not prejudice the residential housing land supply.

10.6 It is proposed to erect a 3m by 5.8m southwest elevation extension measuring 4.6m in height to the ridge of pitched concrete tile roof. It is to be clad in Larch or Accoya and follow the existing building lines of the garage. A set of French doors and two floor to ceiling windows are proposed on the northwest elevation. The existing window on the northeast elevation shall be removed. A decked area will be formed on the northwest elevation and a 1.5m fence is to segregate the

development from 2 The Orchard. Refuse shall be collected by the domestic service and the development will connect to the public water and waste water network.

- 10.7 The Development Plan acknowledges the benefits of tourism to the economy of the Highlands and recognises the demand for self-catering accommodation within the region. The design of the proposal is considered to be of a good quality and natural materials have been utilised where appropriate. A concrete tile roof is regarded to be the most suitable option in this case as this will match the existing finish of the garage. The curtilage of 2 The Orchard is relatively large and both the proposal, in the form of a decked area, and the parent house shall have a sufficient level of private amenity space for their respective uses and scales. Whilst less than the generally recommended 1m has been retained between the southwest elevation and the boundary, adequate space to access the rear of the development will exist on completion. An informal predominantly gravelled driveway sits to the southwest of the house and to the northwest of the proposal. It is extensive and shall provide sufficient space for parking and vehicular manoeuvrability for both the parent house and the development.

Whilst the finishes and range of materials being proposed are generally appropriate given the architectural styles evident across nearby developments of a similar age, it is not clear how the building will ultimately appear as specifics have yet to be finalised. This matter can be appropriately controlled by condition.

- 10.8 The most significant material planning consideration in this case is whether the introduction of a holiday let to a predominantly residential area shall adversely affect neighbour amenity. Glazing and the decked area has been restricted to the northwest elevation which looks over land within the ownership of the applicant and does not directly face any neighbouring properties. The boundaries of the application site are lined by a screening fence and hedge bordering a path outwith the curtilage of 2 The Orchard to the southeast and mature trees within the garden ground of 1 The Orchard to the southwest. Sufficient separation distances of 35m and 38m exist between the development and 2 and 3 The Orchard respectively. The relatively small scale of the development will prevent its use by large numbers of people and it is unlikely to result in a material intensification in the number of vehicles accessing and egressing the application site. The Orchards junction to Ness Road, which features a service bay, and the application sites access to the private way can accommodate the minor increase in vehicular traffic without further enhancement. It is considered therefore that the development will not significantly adversely affect neighbour amenity. However, this is regarded to only be the case if it remains in the same ownership as 2 The Orchard due to the proximity of the development to the parent house and a condition to this effect shall be attached. This condition will substantially reduce the potential for adverse effects to neighbour amenity as residents of 2 The Orchard, current and future, are unlikely to tolerate noise given that they shall be the most affected by the detrimental impacts which can be associated with holiday lets. A further condition to reinforce that the development is for holiday letting and ancillary accommodation purposes only and not suitable for use as a permanent residence shall also be attached.

- 10.9 The Developer Contributions Supplementary Guidance was adopted on 2 November 2018 and forms part of the Council's Development Plan. Contributions to mitigate the impacts of development on local schools will be sought where necessary in areas of identified need. Tourist accommodation developments which are suitable for permanent residential occupancy are not exempt from contributions but one-bedroom properties are. Whilst it would appear from the internal layout that the development could be converted to a two-bedroom development without significant alteration, it is considered that the condition preventing use of the proposal for permanent residential purposes means that there will be no material increase in demand on public services. No contributions were therefore sought in this case.

Other material considerations

- 10.10 There are no other material considerations.

Matters to be secured by Section 75 Agreement

- 10.11 None.

11. CONCLUSION

- 11.1 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 |
| 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:

1. The development shall be used for ancillary accommodation and holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year.

Reason: To ensure that the development does not become used for permanent residential occupation in the interest of the area's residential amenity and in accordance with the use applied for.

2. The development hereby approved shall not be sold, leased, disposed or otherwise alienated from the associated '2 The Orchard' without the prior formal approval of the Planning Authority.

Reason: In order to ensure that the development remains within the same ownership as the parent house in recognition of the proximity of the two developments and in the interests of residential amenity.

3. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including the decked area and fencing and trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

Reason: To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.

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 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 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 (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 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.

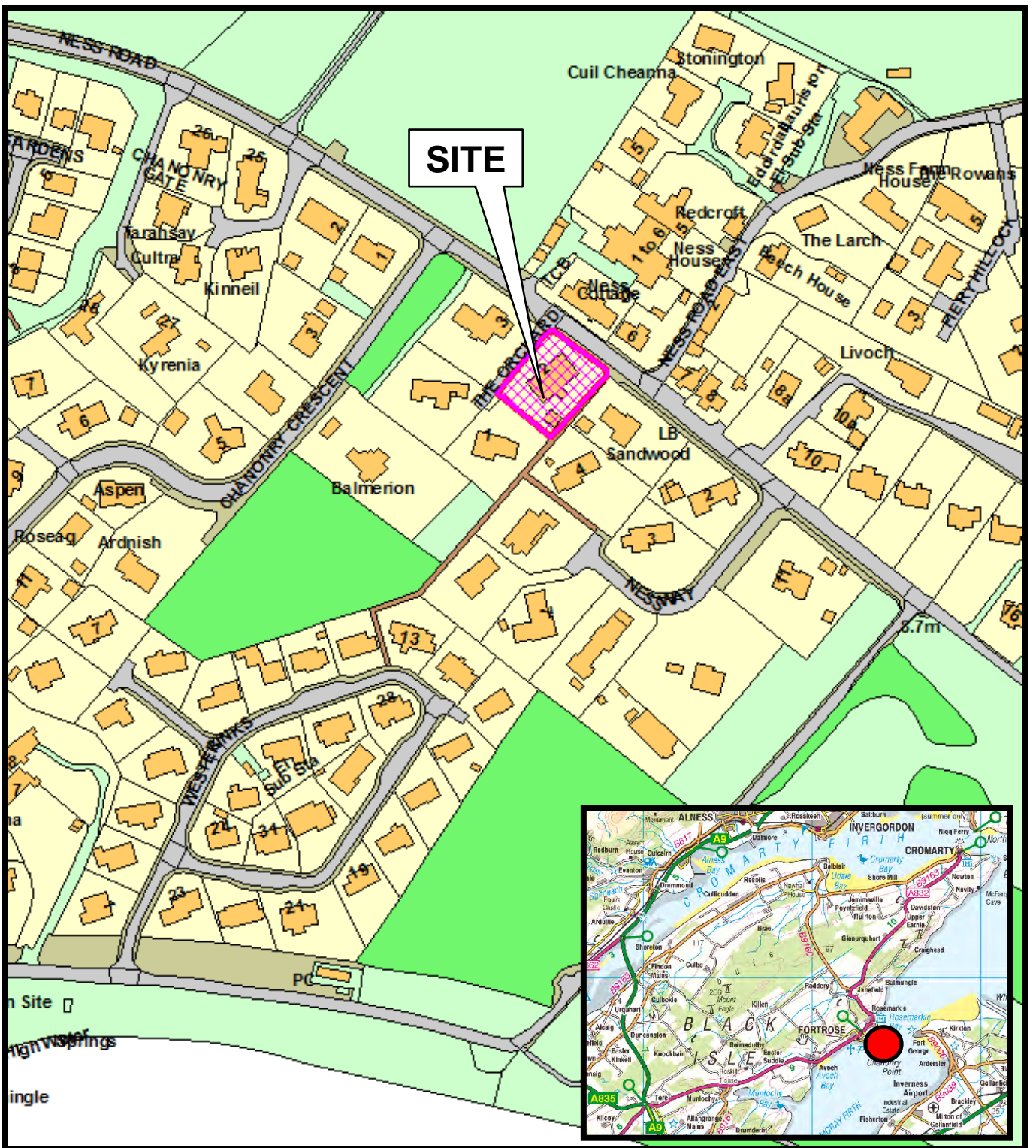
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. 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 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

Designation: Acting Head of Development Management
Author: Graham Fraser
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Reference PA-001 Location Plan
Plan 2 - Reference PA-002 Garage - Existing Garage Plan
Plan 3 - Reference PA-003 Proposed Elevation Plan
Plan 4 - Reference PA-004 Proposed Elevation Plan
Plan 5 - Reference PA-005 Proposed Floor Plan
Plan 6 - Reference PA-006 Proposed Site Layout Plan



SITE



The Highland Council
Comhairle na Gàidhealtachd

Planning & Development Service

19/00925/FUL

Change of use and erection of extension to garage to form self-contained residential unit at 2 The Orchard, Ness Road, Fortrose



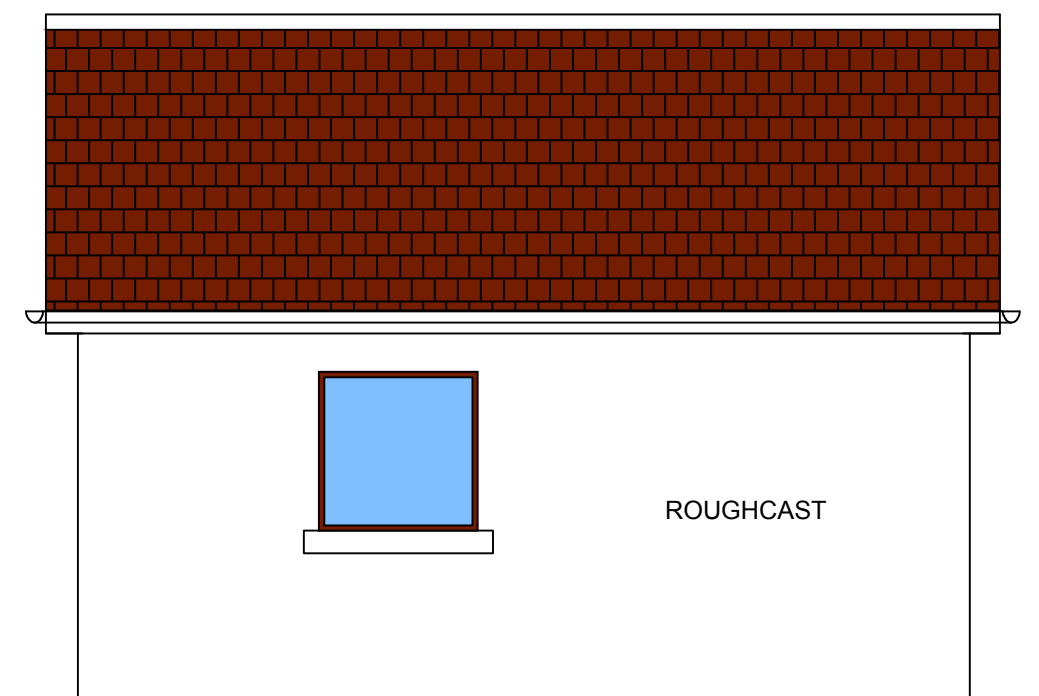


1:1000 Existing Site Plan

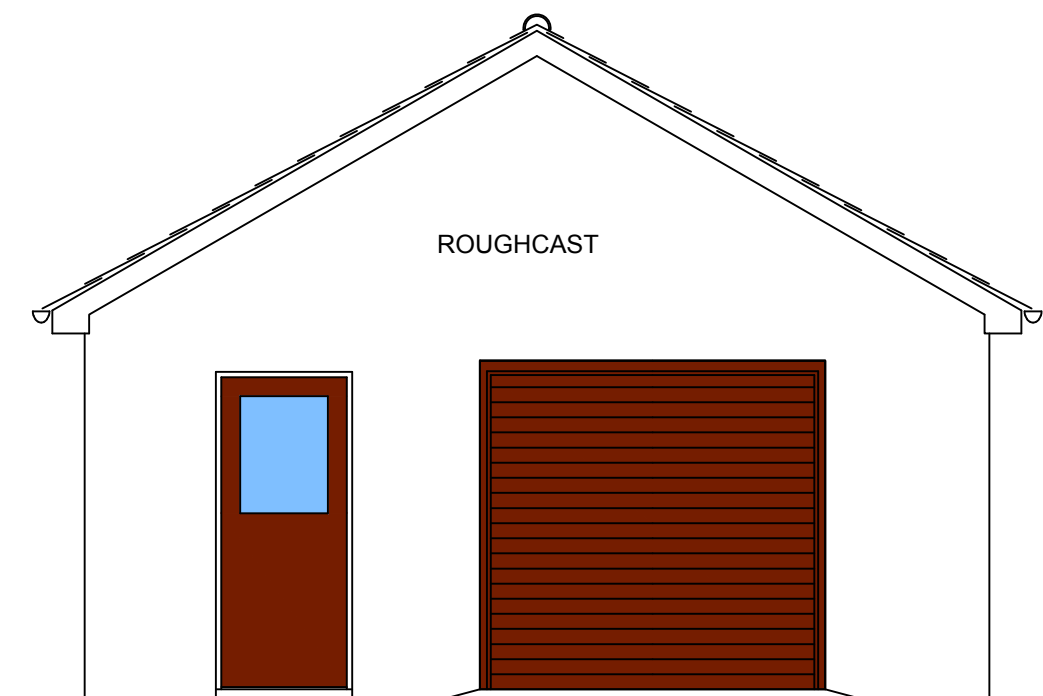
0 10 20 30 40 50[m] 1:1000 SCALE BAR

| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Location Plan | |
| SCALE: 1:5000 / 1:1000 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-001 | REV: |

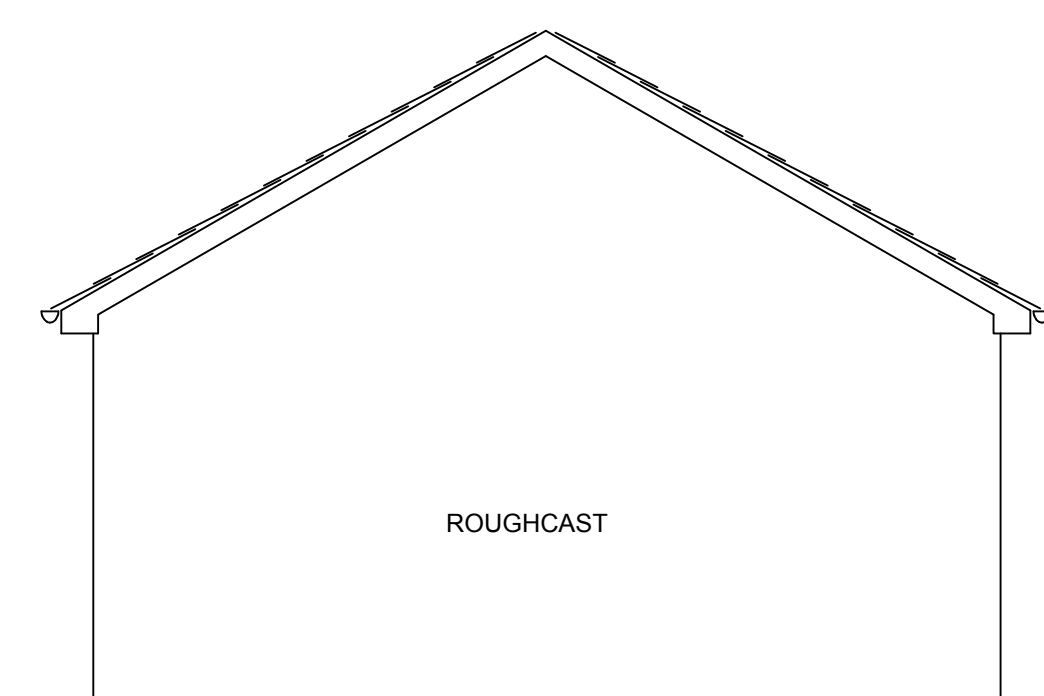
EXISTING PLAN



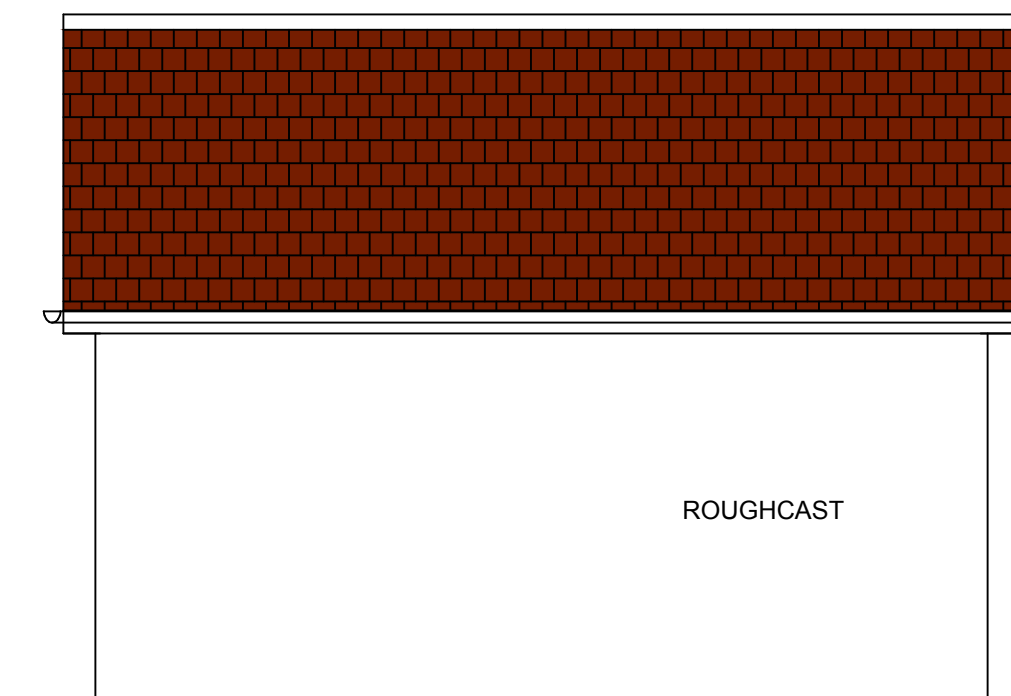
EAST ELEVATION



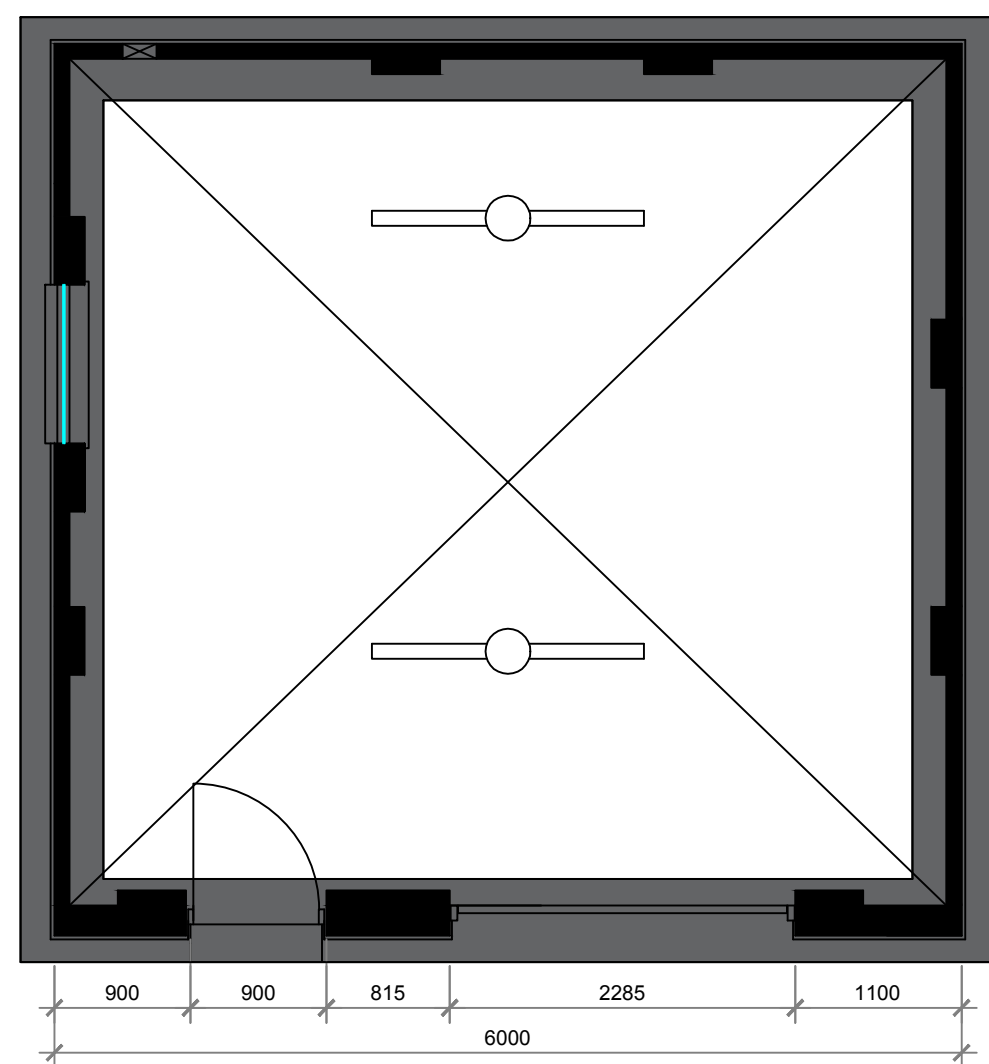
NORTH ELEVATION



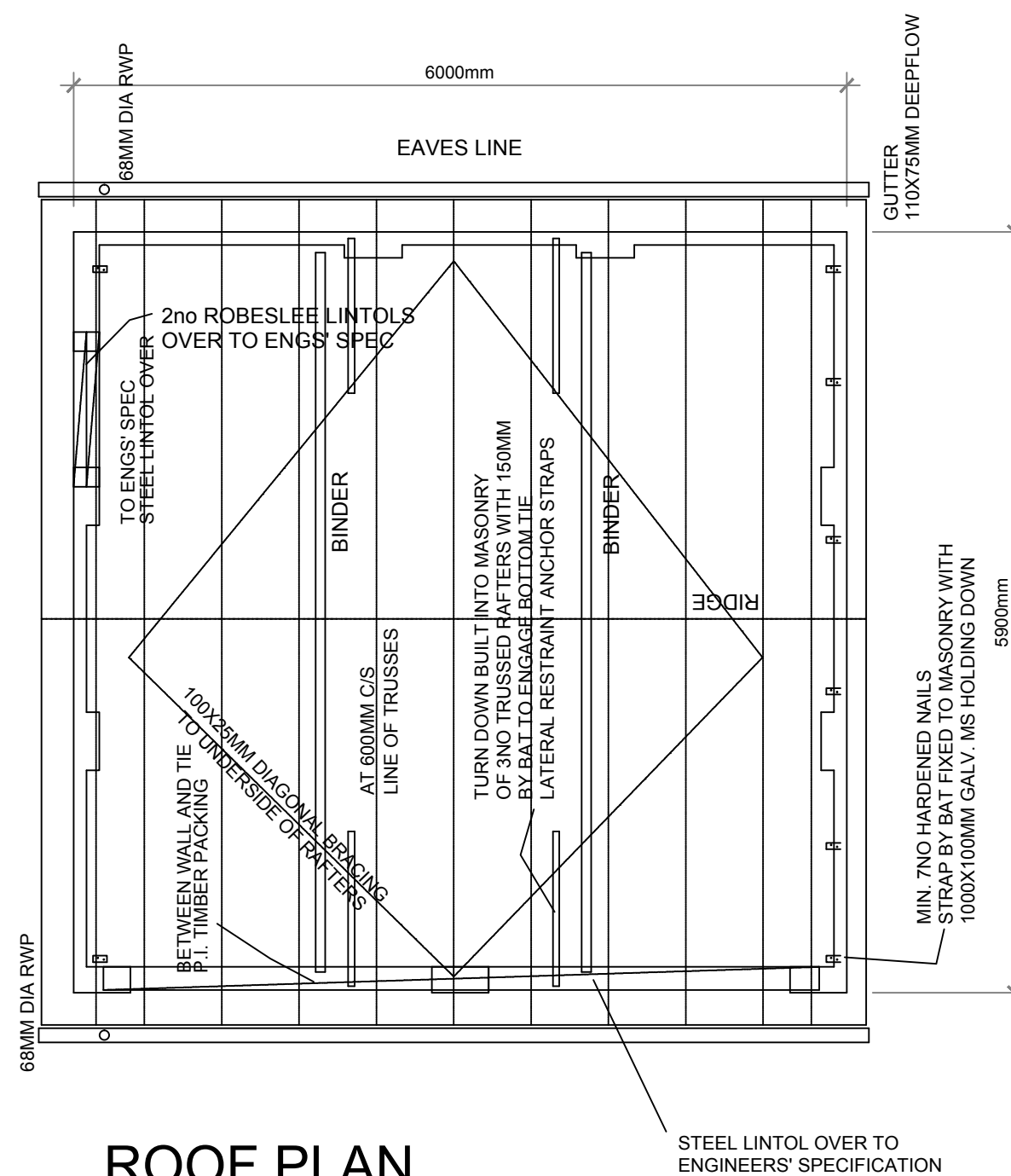
SOUTH ELEVATION



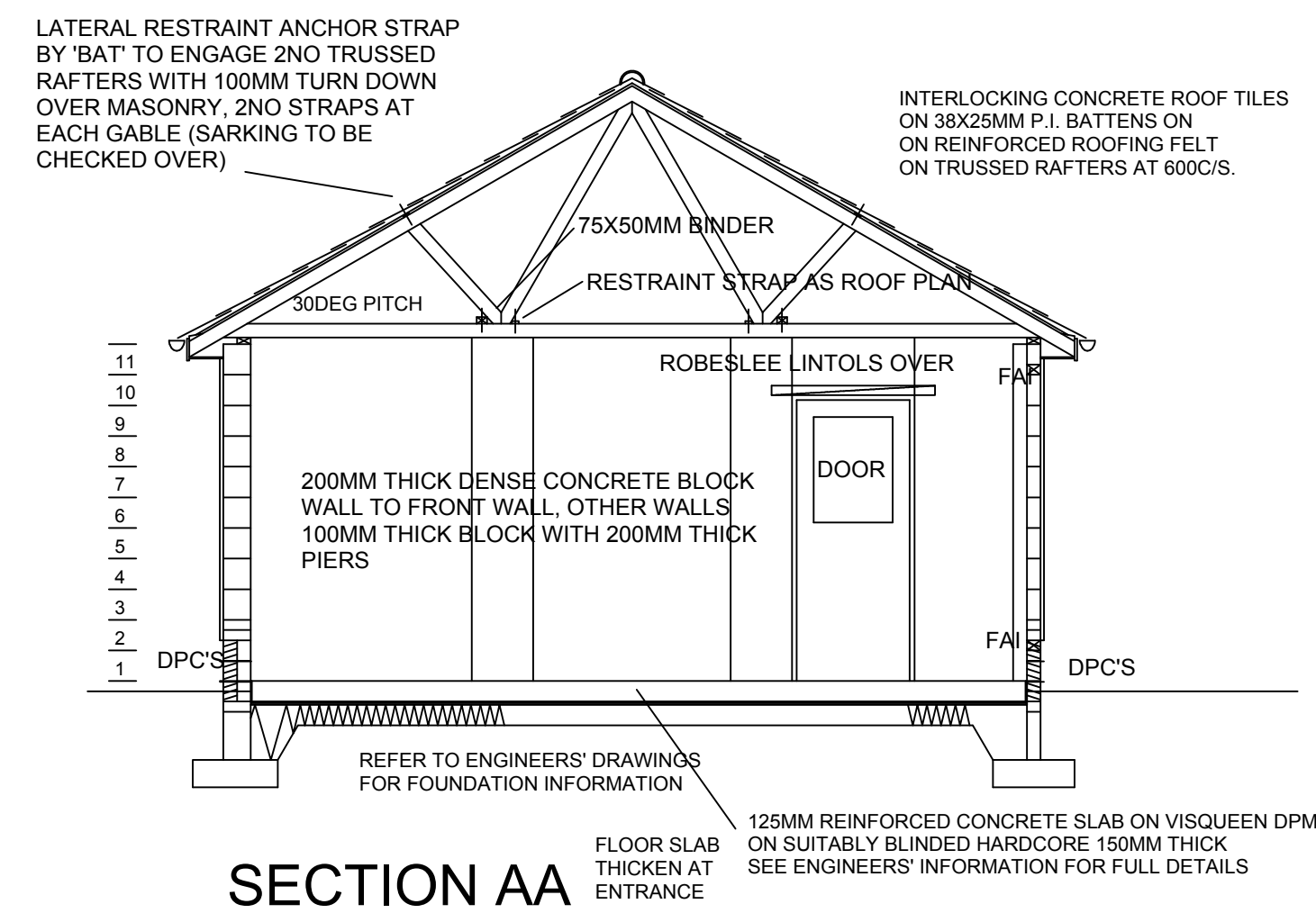
WEST ELEVATION



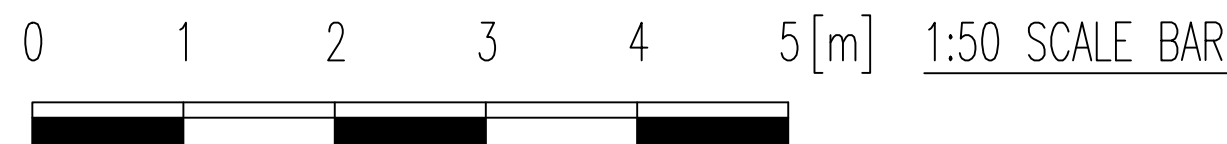
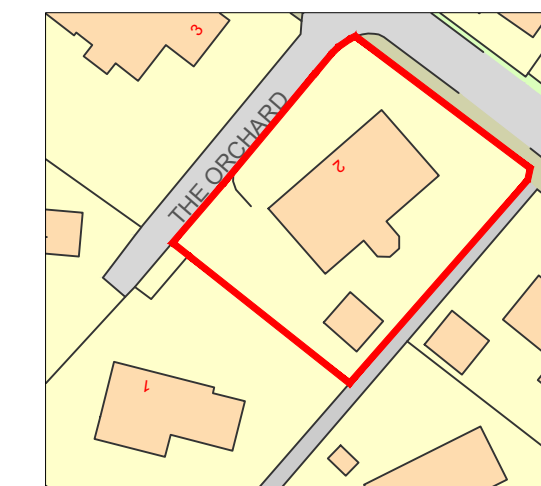
FLOOR PLAN



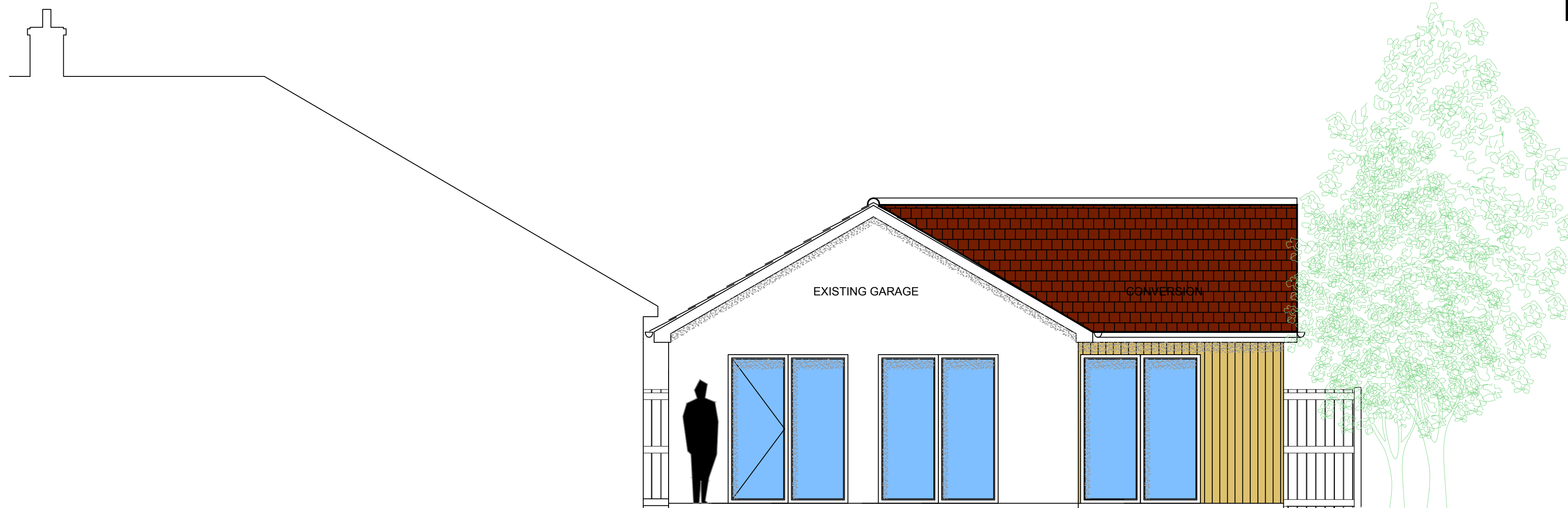
ROOF PLAN



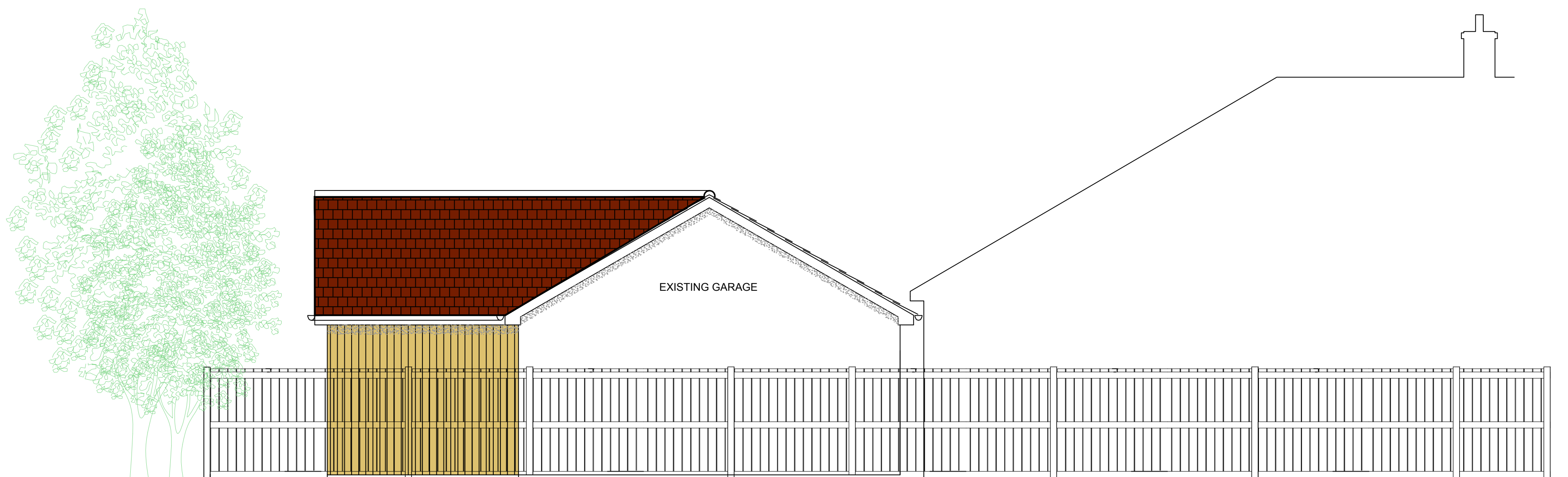
SECTION AA



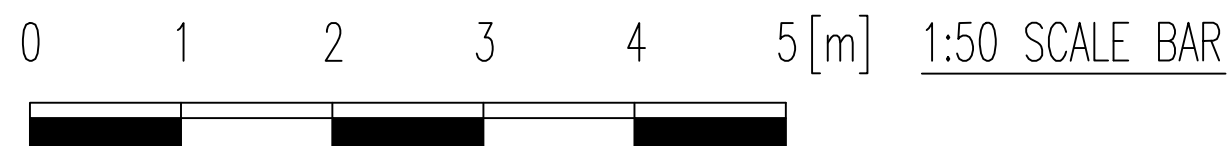
| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Existing Garage Plan | |
| SCALE: 1:50 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-002 | REV: |



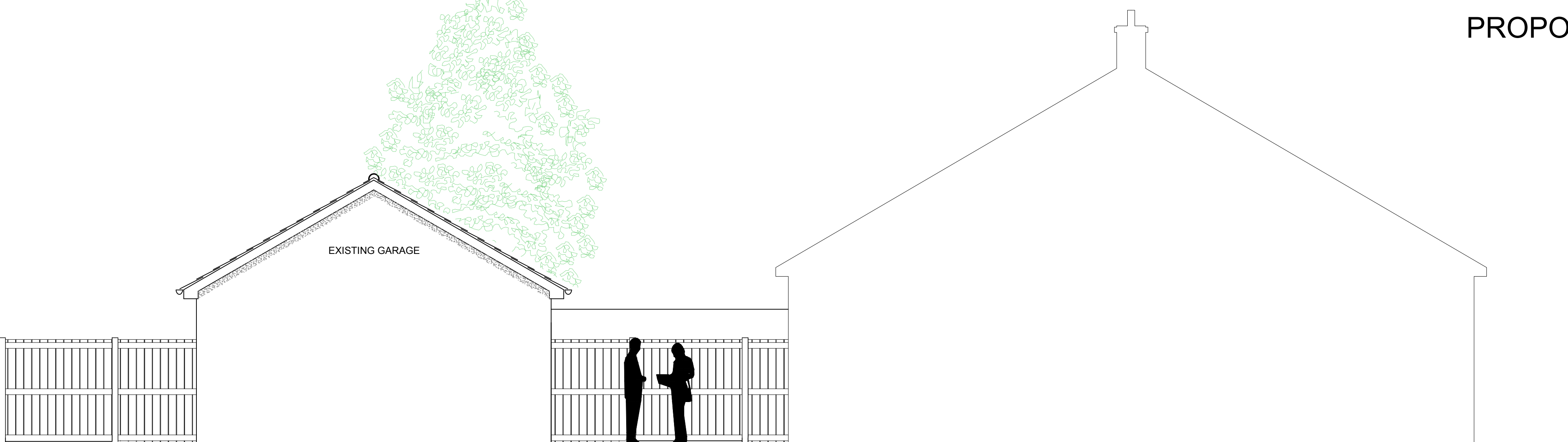
NORTH ELEVATION



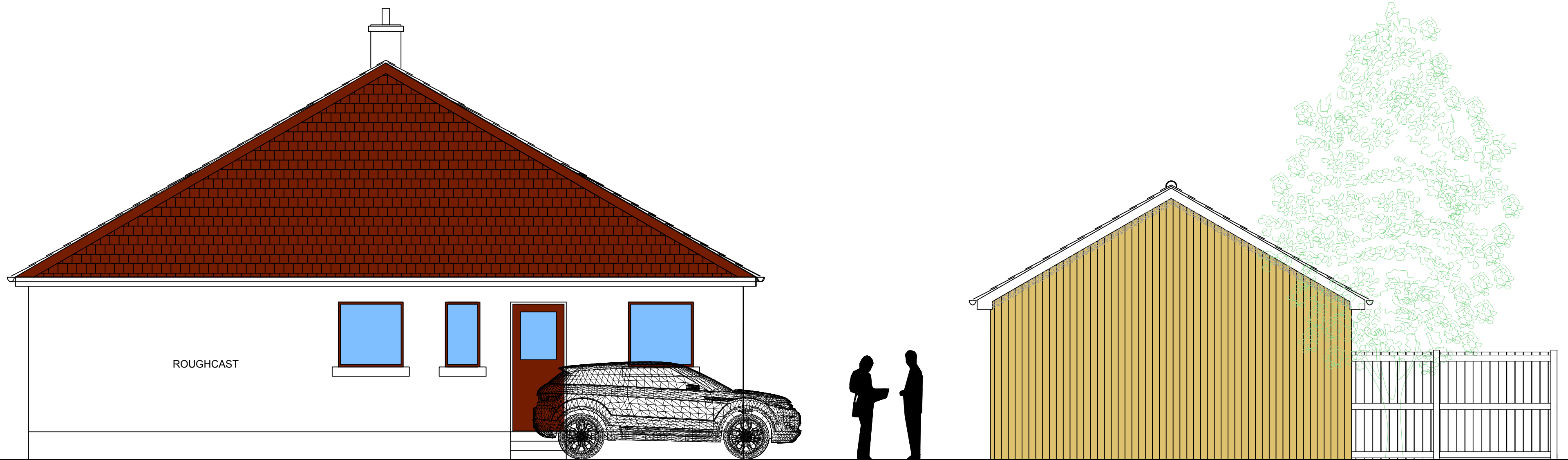
SOUTH ELEVATION



| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Proposed Garage Conversion Elevs | |
| SCALE: 1:50 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-003 | REV: |

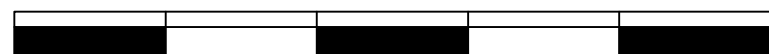


WEST ELEVATION

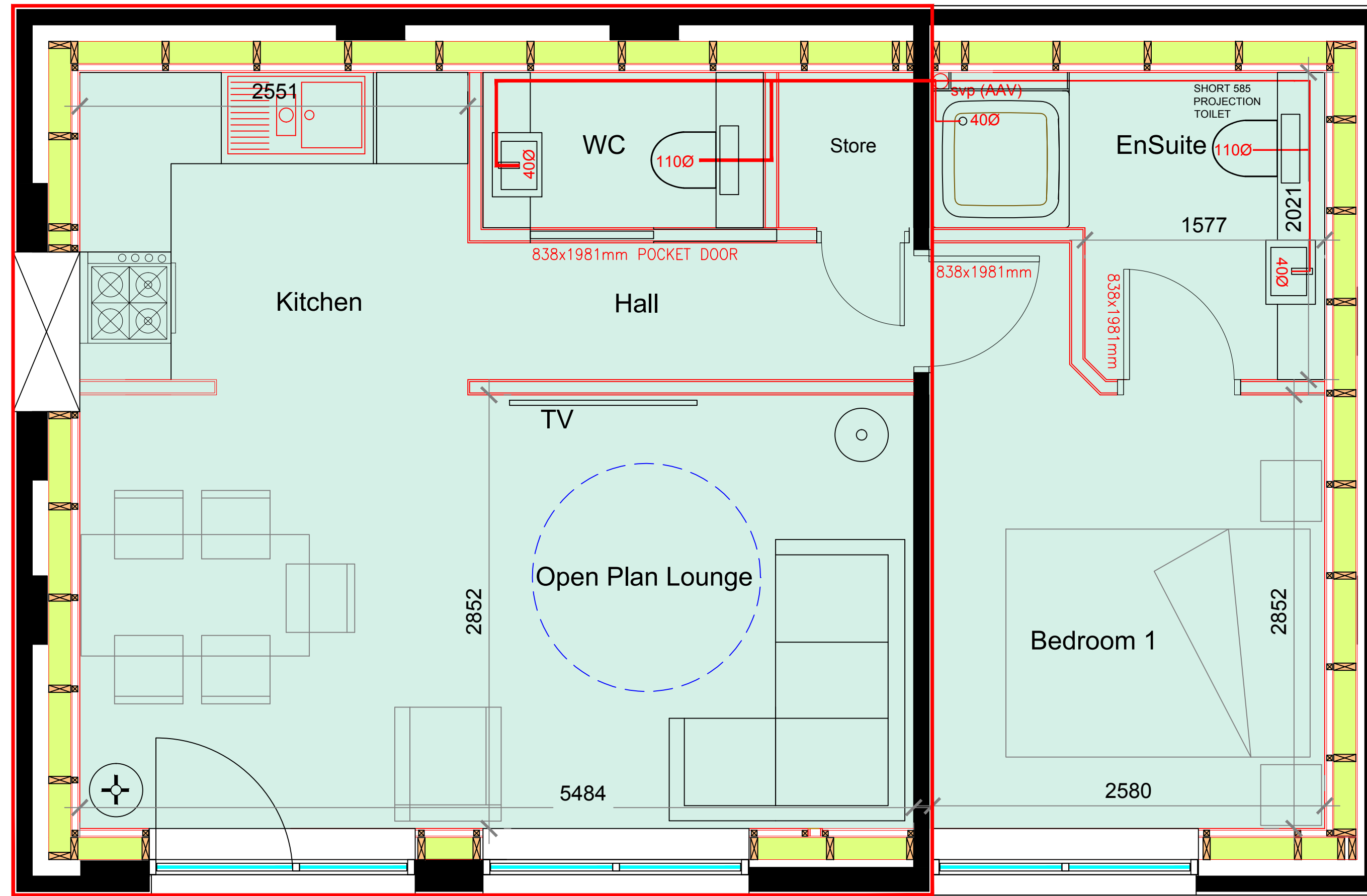


EAST ELEVATION

0 1 2 3 4 5 [m] 1:50 SCALE BAR



| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Proposed Garage Conversion Elevs | |
| SCALE: 1:50 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-004 | REV: |



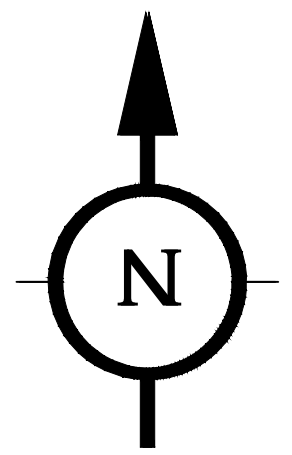
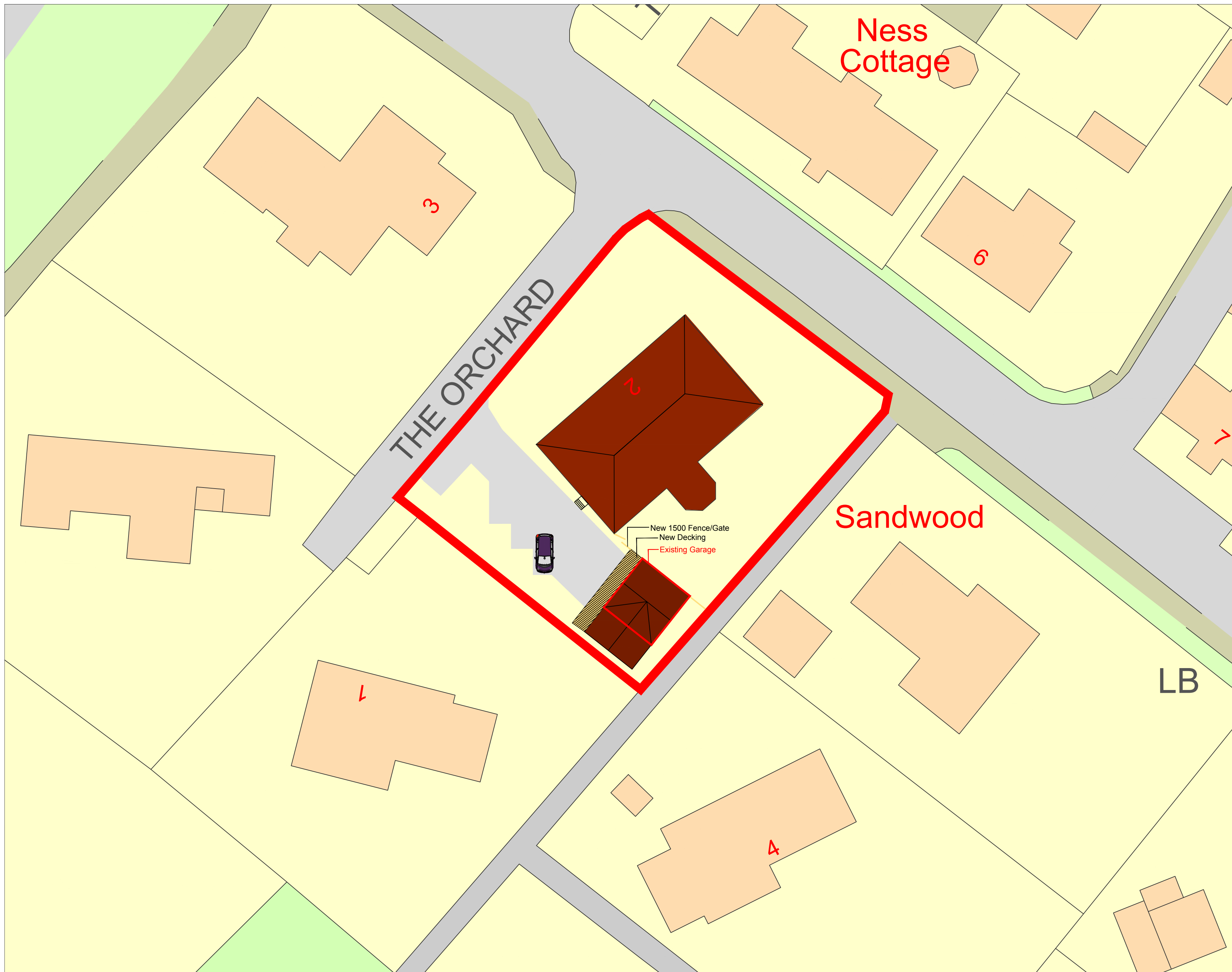
1 BED FLOOR PLAN

LINE OF EXISTING GARAGE

0 1 2 3 4 5 [m] 1:25 SCALE BAR



| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Proposed Garage Floor Plan | |
| SCALE: 1:25 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-005 | REV: |



0 10 20 30 40 50 [m] 1:250 SCALE BAR



| | |
|---|-------------------|
| ADDRESS: Mr & Mrs Jahan Shahab 2 The Orchard, Fortrose IV10 8SD | |
| TITLE: A2 Proposed Garage Site Plan | |
| SCALE: 1:250 | DATE: Feb 2019 |
| DRAWING NUMBER: PA-006 | REV: |