

Agenda Item	6.1
Report No	PLN/032/20

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 15 September 2020

Report Title: 19/00491/FUL: Gillian and Wayne Grant
Land 50M NE of Mead Leys, Smiddy Wood, Strathpeffer

Report By: Acting Head of Development Management – Highland

1. **Purpose/Executive Summary**

1.1 **Description:** Erection of Dwelling

Ward: 05 - Wester Ross, Strathpeffer and Lochalsh

1.2 **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.

2. **Recommendations**

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

3. PROPOSED DEVELOPMENT

- 3.1 The application seeks detailed consent for a 1¾ storey 3-4 bedroom house on a 7.37 hectare croft known as Smithy's Croft. The house utilises an existing access point with the A834 and is then served by a private track which will be extended into the site. A new access into the remaining croft is to be created from the house site.
- 3.2 The application was accompanied by an Operational Needs Assessment (ONA) setting out the justification that the proposed house is required in order to allow the proper operation of the 7.37 hectare croft on which the proposed house is located.
- 3.3 A summary of the contents of the ONA is set out below;
- The 7.37 hectare croft, known as Smithy's Croft, has been in the applicant's family for a number of years.
 - The croft is currently run by a family member alongside Woodside Farm on the outskirts of Strathpeffer.
 - The croft is to be transferred to the applicant who currently lives 30 miles away from the site.
 - The land is capable of average production yields classified as grade 3.2 by the Macaulay Institute for agriculture.
 - The land is well fenced however there are no buildings.
 - The land has been used for grazing sheep and also cropped for hay.
 - The applicants propose starting a small flock of pedigree and commercial sheep, including 15 pedigree Valais Blacknose and 20 commercial ewes. The sheep will be lambed and offspring sold.
 - The applicant's also plan to diversify into a pheasant chick rearing enterprise utilising the applicants background in the game industry.
 - The hours of labour required to operate the enterprise proposed is 513.9hrs. The SAC Farm Management Handbook defines 1 labour unit as requiring 1900 hours incurred by the said enterprise. The proposed enterprise therefore makes up 0.27 of a labour unit requirement.

The case is made that a croft of this nature will never enable a livestock enterprise to run at a scale which would justify 1 labour unit, but that on site accommodation is necessary to enable the applicants to establish their own agricultural enterprise at Smithy's Croft, support the nearby family business at Woodside Farm, secure traditional crofting culture in the area, as well as address security and animal welfare concerns.

4. SITE DESCRIPTION

- 4.1 The site is currently an undeveloped field situated to the south of a line of houses fronting the A834 at Blairninich. A band of Scots Pine is situated to the west and an open field surrounds the house site to the east and south. The rear elevations of properties orientated towards the A834 are located to the north. The site is relatively flat and is currently growing grass.#

5. PLANNING HISTORY

None

6. PUBLIC PARTICIPATION

6.1 Advertised: Unknown Neighbour

Date Advertised: 22.02.2019

Representation deadline: 09.03.2019

Timeous representations: 3

Late representations: 0

6.2 Material considerations raised are summarised as follows:

- a) The existing access cannot accommodate a further house plus the associated construction traffic.
- b) The applicant does not own the private track serving the site or share maintenance.
- c) Existing services shall be disrupted.
- d) The access should be unrestricted and mud-free during construction and thereafter. Any damage from construction traffic should be made good.
- e) Field to be used as flood holding area as part of the Dingwall Flood Alleviation Scheme.

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.

7. CONSULTATIONS

7.1 Flood Risk Management Team – Objection -The application site lies partly inside the 1 in 200 year flood extents of the River Peffery. This indicates that the site is potentially at risk of flooding during a severe weather event. Our latest flood modelling has demonstrated that the access to and the western part of the application site would flood in a 1 in 200 year plus climate change flood event. We are therefore unable to support this application on the grounds of flood risk at this time.

The applicant then met with the Council's Flood Risk Management Team.

Further response – Objection maintained – The access has been subject to flooding in the recent past and this is predicted to occur at relatively low return periods. In a 1 in 200 year plus climate change flood event it is likely that the western side of the site, the access to the development and the public A834 road would all be severely affected by flood water, and the access/egress to the site for emergency vehicles would not be available. We accept that dry pedestrian access/egress to a couple of adjacent properties would be available, but full evacuation would require passage through flooded areas.

7.2 Forestry Officer – No objections subject to conditions – A band of Scots Pine is positioned to the west of the site which should be protected during construction by condition. A condition ensuring sufficient separation between buildings and the trees and the removal of permitted development rights is also recommended.

7.3 Agricultural Consultant – Justification in accordance with the Housing in the Countryside and Siting and Design Guidance should be submitted in order to fully illustrate the operational need for the house.

An Operational Needs Assessment was submitted by the applicant

Further Response Agricultural Consultant – The proposed agricultural enterprise falls considerably short of 1 labour unit. The applicants concern on animal welfare and security holds some merit, however the necessity to live on site to operate an agricultural enterprise of this nature and scale, whilst desirable, could not be described as a necessity.

7.4 SEPA – Objection- Flood Risk Assessment or other suitable information required as the site lies partly within the medium likelihood flood extent of the SEPA flood maps.

The Flood Risk Management Team then shared detailed flood modelling with SEPA to inform their second response below.

Further response SEPA – Objection withdrawn – Following the Council’s Flood Risk Management Team sharing with SEPA the 1 in 200 year flood extents from the River Peffery Flood Study it is demonstrated that the dwelling itself would be outwith the functional floodplain and dry pedestrian access and egress is available. It is noted that during a flood event there would be no vehicular access and egress to the site and that the nearby road would also be flooded. Vehicular and emergency access and egress is a matter outwith our remit and therefore this needs to be discussed with The Highland Council Flood Team directly.

7.5 Scottish Water – No objection - Standard advice for applicant

7.6 Crofting Commission – Views awaited.

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
- 35 - Housing in the Countryside (Hinterland Areas)
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

8.2 Inner Moray Firth Local Development Plan 2012

No site specific policies – within designated hinterland

8.3 **Highland Council Supplementary Planning Policy Guidance**

Access to Single Houses and Small Housing Developments (May 2011)
Developer Contributions (March 2013)
Flood Risk and Drainage Impact Assessment (Jan 2013)
Housing in the Countryside and Siting and Design (March 2013)
Sustainable Design Guide (Jan 2013)
Trees, Woodlands and Development (Jan 2013)

9. **OTHER MATERIAL POLICY CONSIDERATIONS**

9.1 **Scottish Government Planning Policy 2014**

Promoting Rural Development – Paragraph 74 – 83

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.

Determining Issues

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.

Planning Considerations - Policy 35 (Housing in the Countryside – Hinterland Areas)

10.3 The site is located within the designated hinterland and so must be assessed against **policy 35 (Housing in the Countryside – Hinterland Areas)** of the HwLDP and the associated Housing in the Countryside Supplementary Guidance.

10.4 The hinterland is an area of countryside close to a main settlement and subject to significant pressure for housing development. Within these areas there is a presumption against new housing development subject to certain exceptions. These exceptions are listed in the policy and further detailed within the Housing in the Countryside Supplementary Guidance.

10.5 The applicant submitted a justification for the house against the land management exception. This justification took the form of an Operational Needs Assessment (ONA) and included the required information set out within The Housing in the Countryside Supplementary Guidance. The ONA is summarised in section 3.3 above.

10.6 Policy 35 demands that housing is essential for land management purposes. In terms of implementing this policy and assessing whether or not a house can be deemed essential, the labour unit hours required to properly run the proposed agricultural enterprise are quantified. A full time labour unit (equivalent to full-time occupation) is considered to be 1900 labour hours per annum. The Operational Needs Assessment submitted with the application proposes 513.9 labour hours or 0.27 of a labour unit, which is significantly below a full-time occupation.

- 10.7 The applicant's submission acknowledges that the croft would be run on a part-time basis alongside the applicant's main employment. A case is also made that the house is required for succession purposes, with the applicant's father retiring from farming. The proposed agricultural enterprise however falls considerably short of 1 labour unit. While living on the site could be described as desirable from an animal welfare and practical perspective, living on the site could not be described as essential for such a limited area of croft land. The land management exception to policy 35 requires housing to be essential for land management and the submitted ONA does not demonstrate that a house is essential, only desirable. The proposal therefore fails to meet the land management exception of policy 35 - Housing in the Countryside (Hinterland Areas) of the HwLDP.
- 10.8 Another exception to policy 35 of relevance to this case is the housing groups exception which allows for opportunities for the "rounding-off" of housing groups or small scale infill. The requirements for meeting this exception are detailed in sections 6.4 - 6.12 of the Housing in the Countryside Guidance. For a group to be considered as such there must be a cohesive grouping of at least three properties which share a well-defined and perceptible relationship to one another.
- 10.9 The site is situated within Blairninich. While Blairninich does not contain any facilities, it has the character of a small settlement due to the number and the layout of existing houses. The development pattern comprises mainly of a linear roadside frontage along the southern side of the A834 and a cluster of development on the north side. Open fields create a gap in the settlement to the east before the linear development pattern commences again on both sides of the public road. The development pattern does not solely consist of the houses fronting the road and there are several examples within Blairninich of housing being located in clusters to the rear of the road. Directly to the west of this site are two properties positioned behind the roadside frontage. These properties are situated off the same access leading to the site. The proposed site is considered to closely echo these two properties to the west and together would create a small cluster behind the linear roadside development pattern each sharing the access point with the A834.
- 10.10 The proposal while not meeting the land management exception is considered to meet the criteria for the acceptable infill and expansion of a grouping consisting of at least three houses which share a well-defined character. The proposal is therefore considered to accord with policy 35 (Housing in the Countryside – Hinterland Areas) of the HwLDP.

Planning Considerations – Flood Risk

- 10.11 Scottish Planning Policy (SPP) (June 2014) sets out that the planning system should adopt a precautionary approach to flood risk, taking account of the predicted effects of climate change. Furthermore, development should be located away from functional flood plains and medium to high risk areas. Paragraph 264 of SPP states that the effects of flooding on access, including emergency services, should be taken into consideration when assessing flood risk. Highland-wide Local Development Plan policy 64 (Flood Risk) requires avoidance of flood risk areas and states that for developments within or bordering flood risk areas compliance with SPP should be demonstrated through the submission of a flood risk assessment. The Council's Flood Risk and Drainage Impact Assessment Supplementary

Guidance in section 4.1 states that safe access and egress to and from the development during a flood event should be considered in relation to flood risk. Furthermore, section 5.11 C8. lists access/egress as a matter that must be considered within any flood risk assessment.

- 10.12 SEPA's Flood Map shows that the application site lies partly inside the 1 in 200 year flood extents of the River Peffery. This indicates that the site is potentially at risk of flooding during a severe weather event. The Council's Flood Risk Management Team has investigated the provision of a formal flood protection scheme for the River Peffery. As part of this a hydraulic model of the river has been developed. The latest flood modelling demonstrates that the access to the development and the public A834 road would all be severely affected by flood water, and that access/egress to the site for emergency vehicles would not be available. The flood modelling shows that access/egress from the site would require passage through several areas of flood water on the A834 in both an easterly and westerly direction from the site, as well as along the private access itself leading into the site. The A834 has been subject to flooding in the recent past and this is predicted to occur at relatively low return periods.
- 10.13 The dwelling itself would be located outside the 1 in 200 year floodplain and dry pedestrian access/egress to some surrounding properties would be available. On this basis SEPA have not objected as emergency vehicle access/egress falls outwith their remit.
- 10.14 Full evacuation from the site by vehicle would require passage through flooded areas. The Council's Flood Risk Management Team has objected to the application on the grounds that emergency access/egress would therefore not be available during a flood event. The applicant has discussed the objection directly with the Council's Flood Risk Management Team and has also proposed an alternative access to the east. However, it was concluded that the alternative access would be subject to the same flood risk. A Flood Risk Assessment has not been submitted as in this instance as the Council already holds detailed flood modelling data for the river Peffery. The development is therefore not in accordance with national and local planning policy, which seeks to avoid consenting development at medium to high flood risk, including where the flood risk relates to access/egress.

Planning Considerations - Access

- 10.15 Visibility splays at the access point with the A834 are currently obscured by boundary features and vegetation in both the east and west direction. The site access is within a 40pmh speed limit zone where we normally expect splays of 2.4m x 120m to be provided and maintained in perpetuity. At present due to boundary features and vegetation outwith the control of the applicant, approximately 65m is available to the east and 50m to the west. This is significantly below the standard requirement and there is not considered to be any justification to reduce the required splays.
- 10.16 In response to the issue of inadequate visibility, a visibility splay plan was submitted with the aim of showing that sufficient visibility was available. This plan however has been assessed and is not accurate. In particular, the splays are not correctly drawn at a distance of 2.4m back from the edge of the carriageway to the centre line of the junction. This has the result of skewing the y dimension measurement

so that it avoids the adjacent boundary features. To date the boundary features and vegetation remain an obscuring feature, and as these features remain outwith the control of the applicant their ongoing maintenance cannot be ensured.

- 10.17 The development is therefore considered to be contrary to policy 28 (Sustainable Development) of the Highland-wide Local Development Plan as it would be detrimental to road traffic safety due to the substandard visibility at the junction with the public road.

Other material considerations

- 10.18 The proposed one and three quarter storey proposed house design is a mix of traditional and contemporary features and is considered sympathetic to the mix of style of properties currently found at Blairninich. The proposed house design is therefore considered acceptable. Furthermore, the house is sufficiently separated from surrounding neighbours with first floor glazing orientated to the south away from neighbours. There is therefore not considered to be any significant neighbour amenity issues.

Non-material considerations

- 10.19 Representations raise matters relating to the maintenance of the private track. These are private civil matters that would require to be addressed by the applicant independently of any planning application.
- 10.20 A representation notes that the field in which the proposal is located was to be used as a flood holding area as part of a flood alleviation scheme. The Flood Risk Management Team advise that while this was the case, this no longer forms part of proposed flood alleviation works. This point is a separate unrelated matter to the flood risk issues at the site and the objection from the Flood Risk Management Team discussed above.

Developer Contributions

- 10.21 The site is within the catchment area for Strathpeffer Primary School and Dingwall Academy. If the application was approved currently a contribution of £755 would be required towards a major extension/new build for Dingwall Academy.
- 10.22 The applicant has four months from the date of any decision to pay developer contributions. Should a contribution not be paid within four months, the application shall be refused under delegated powers.

11. Conclusion

- 11.1 While the application did not adequately demonstrate that the house is essential for land management purposes it is considered to meet with the housing groups exception of policy 35 of the HwLDP and the Housing in the Countryside Guidance. There is however an objection from the Flood Risk Management Team on the grounds of flood risk. The private access to the site and route out of the site in either direction along the A834 has been subject to flood modelling. This shows that emergency access/egress would have to pass through deep flood water at relatively low return periods. The proposal if approved would place inhabitants at significant risk due to the absence of flood free emergency access/egress.

Furthermore, visibility splays at the access point with the A834 are obscured by boundary features and vegetation in both directions. These features are outwith the control of the applicant and would require removal and/or perpetual maintenance in order to ensure acceptable visibility splays. If approved, the development would be detrimental to road safety due to the sub-standard nature of the visibility splays.

- 11.2 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.

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: Flood Risk
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

13. RECOMMENDATION

Action required before decision Y issued

Payment of developer contribution Y

Subject to the above, it is recommended that planning permission be **REFUSED**, subject to the following:

Reasons for Refusal

1. The proposal is considered to be contrary to policy 64 (Flood Risk) of the Highland-wide Local Development Plan which states that development at risk from flooding should be avoided. Paragraph 264 of SPP states that the effects of flood on access including emergency services should be taken into consideration when assessing flood risk. The latest River Pefferrey flood modelling demonstrates that the access to the development and the public A834 road to the west and east of the site would all be severely affected by flood water, and that access/egress to the site for emergency vehicles would not be available. The access has been subject to flooding in the recent past and this is predicted to occur at relatively low return periods. The proposal if approved would place inhabitants at significant risk due to the absence of flood free emergency access. The development does not accord with the principles of flood risk management, in particular, that developing on sites at risk from flooding should be avoided in the first instance.

2. The proposal is considered contrary to policy 28 (Sustainable Design) of the Highland-wide local Development Plan as it would utilise a sub-standard access with the A834 where visibility is obscured in both directions by neighbouring boundary features and vegetation, and is therefore below the standard required of 2.4m x 120m. The development is considered detrimental to road traffic safety as it intensifies the use of an access with substandard visibility. Improvement and maintenance of the visibility splay is not achievable on land outwith the control of the applicant.

Designation: Acting Head of Development Management – Highland

Author: Rebecca Hindson

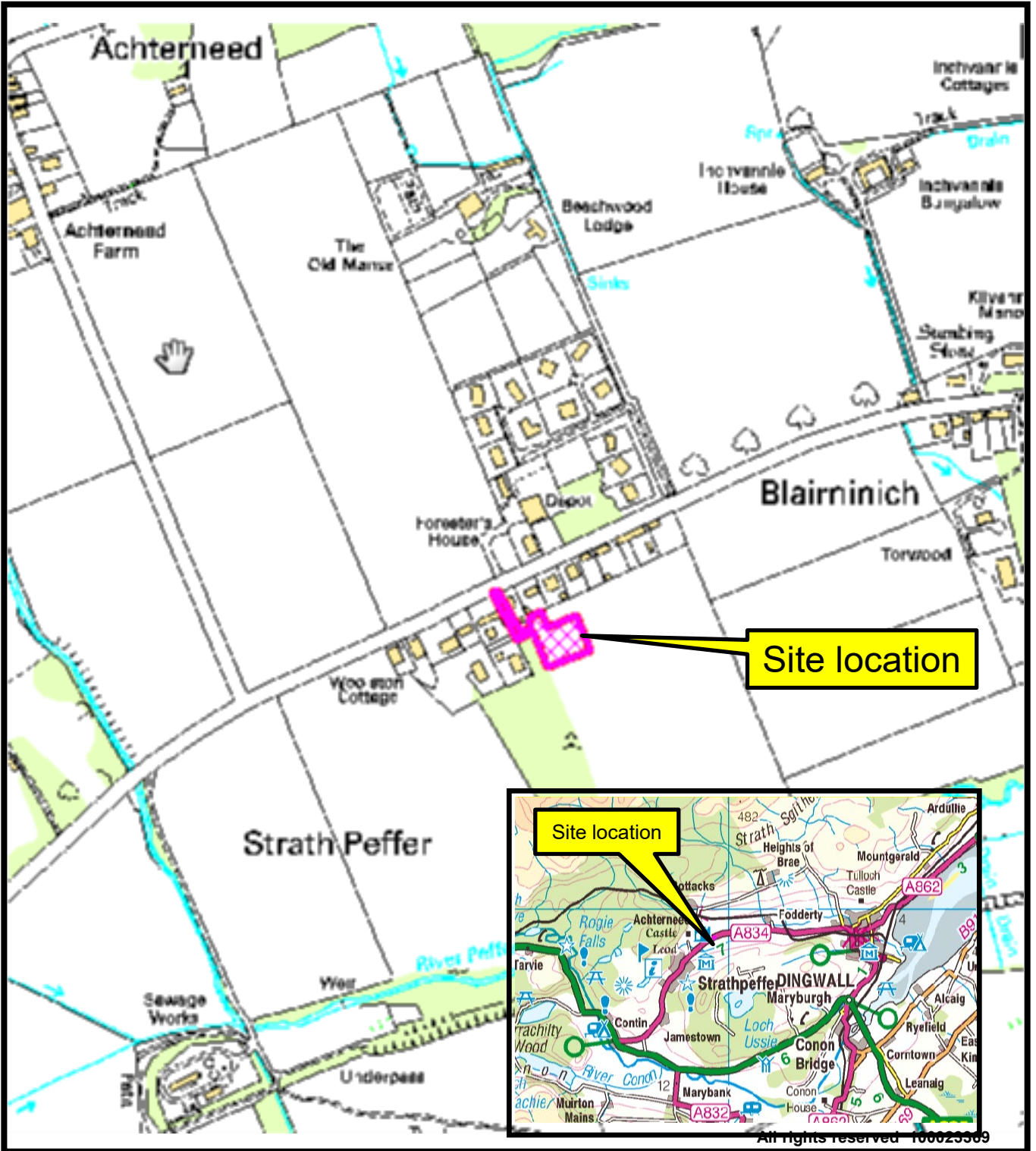
Background Papers: Documents referred to in report and in case file.

Relevant Plans:

- Plan 1 - HC Location Plan
- Plan 2 - Location Plan 18-252-00
- Plan 3 - Site Layout Plan 18-252-01
- Plan 4 - Floor Plan 18-252-05
- Plan 5 - Elevations 18-252-10
- Plan 6 - General Plan 18-252-15
- Plan 7 - Visibility Splay Plan 18-252-01

Appendix – Letters of Representation

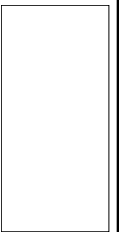
Name	Address	Date Received	For/Against/Neutral
Mr Chris Hickson	The Old Smidday, Blairninich, Strathpeffer, IV14 9AB	28.02.2019	Against
Mr David Davidson	Polteallach, Strathpeffer Road, Strathpeffer, IV14 9AB	04.03.2019	Against
Ms Tina Fewster	Mead Lays, Blairninich, Strathpeffer, IV14 9AB	07.03.2019	Neutral



The Highland Council
Comhairle na Gàidhealtachd

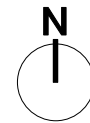
Development & Infrastructure Service

19/00491/FUL
 Erection of house
 Land 50M NE Of Mead Leys
 Smiddy Wood
 Strathpeffer
September 2020





LOCATION PLAN
Scale: 1:2500



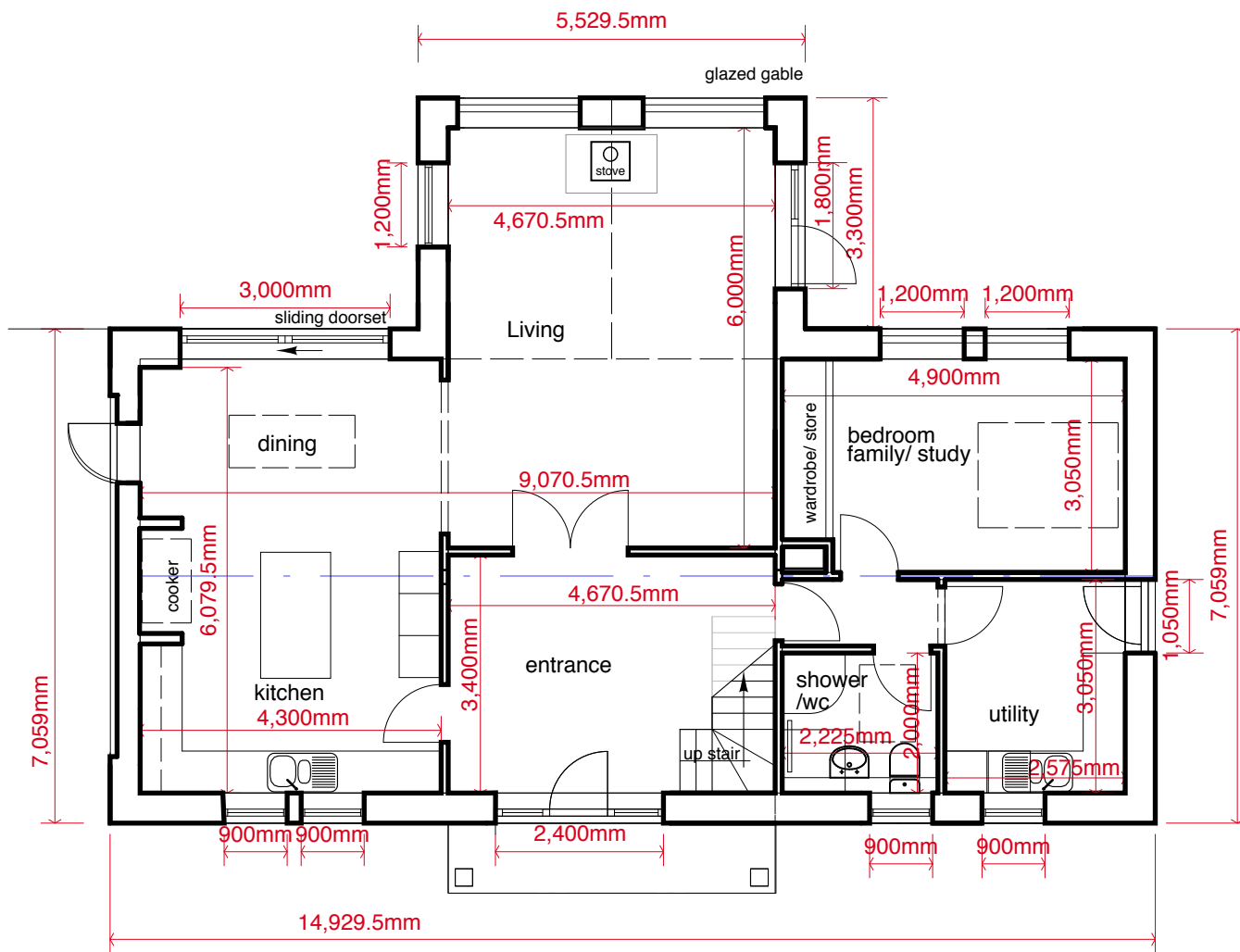
Application Boundary
Site Approx 1650 sqm

Feasibility Drawings
NOT FOR CONSTRUCTION

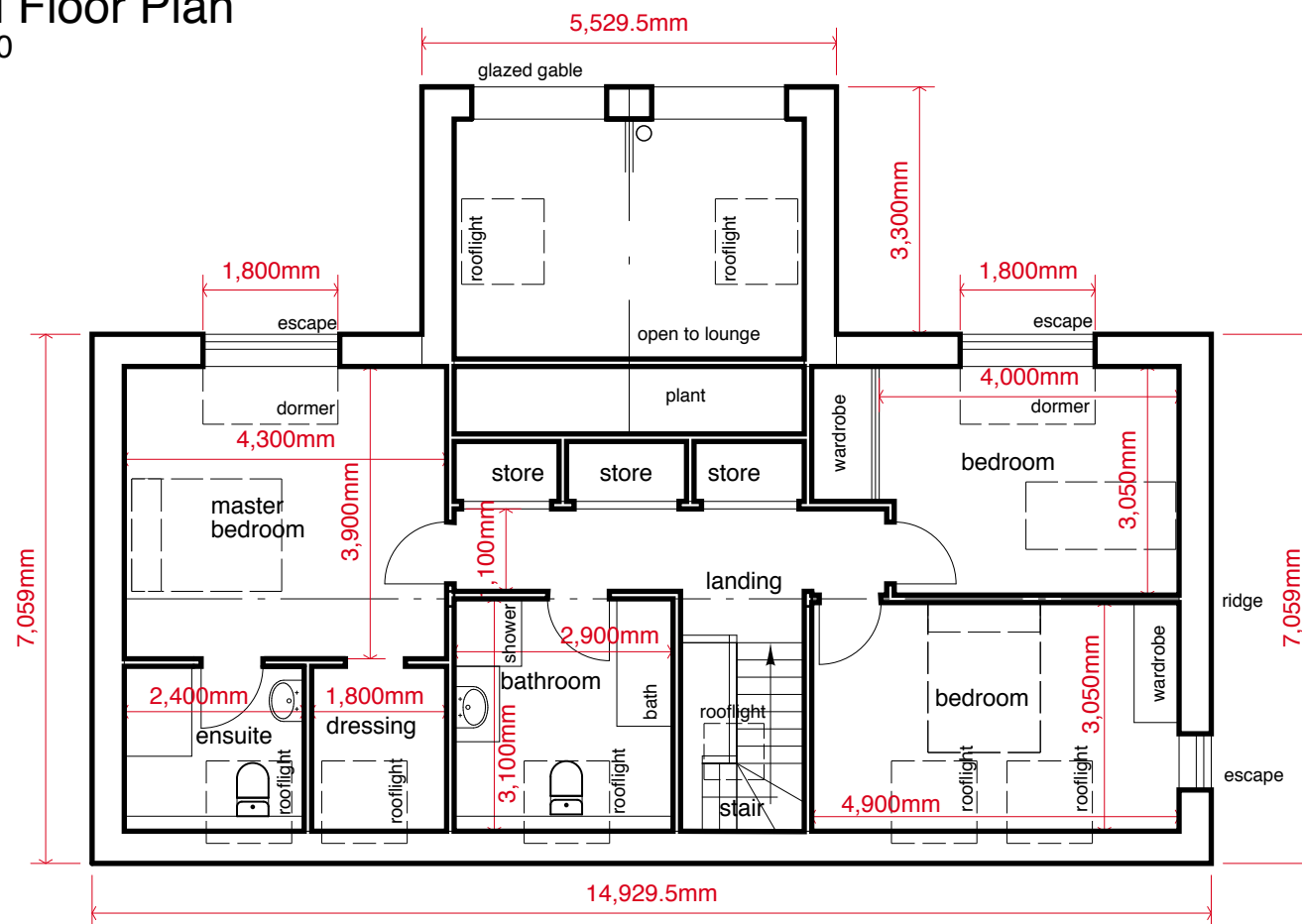
All critical dimensions to be checked on site. No critical dimensions to be scaled from this drawing. Any discrepancies on site to be notified to the client for clarification. Up to date drawings and information must be obtained before commencement of work. Drawings may be copied by contractors and clients etc. but copyright of all designs remain with the designer.

These drawings are intended for Building Warrant and Planning applications and are not necessarily exhaustive. If they are used as a basis for preparing tenders or carrying out the works fully, details of all items included or excluded should be provided to the client. It should be noted that items that may be required are not necessarily mentioned. Contractors are to ensure full compliance with the building regulations an all relevant Codes, Building Standards etc. and in accordance with normal quality tradesmen practices.

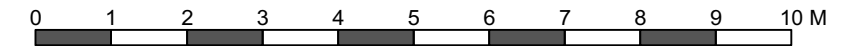
Client GILLIAN GRANT	LOCATION PLAN	MACBEATH ARCHITECTS
Project BLAIRNINICH, STRATHPEPPER, DINGWALL	Scale 1 : 2500 A3 Sheet size Drawing No: 18/252/00	Morrish House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com



Ground Floor Plan
Scale 1 100



Upper Floor Plan
Scale 1 100

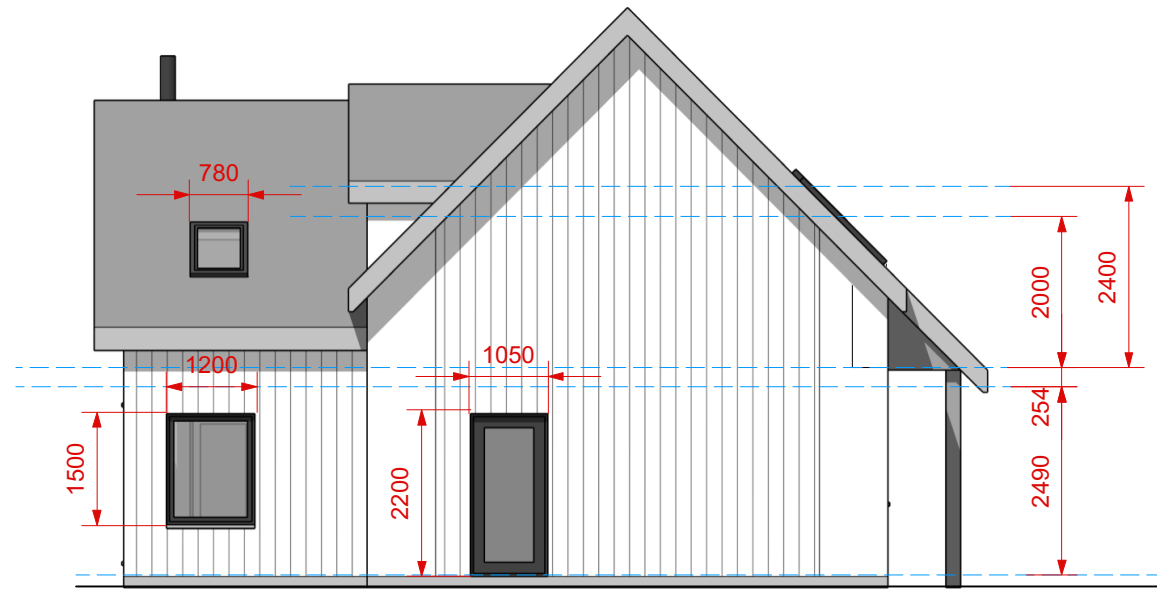


Feasibility Drawings
NOT FOR CONSTRUCTION

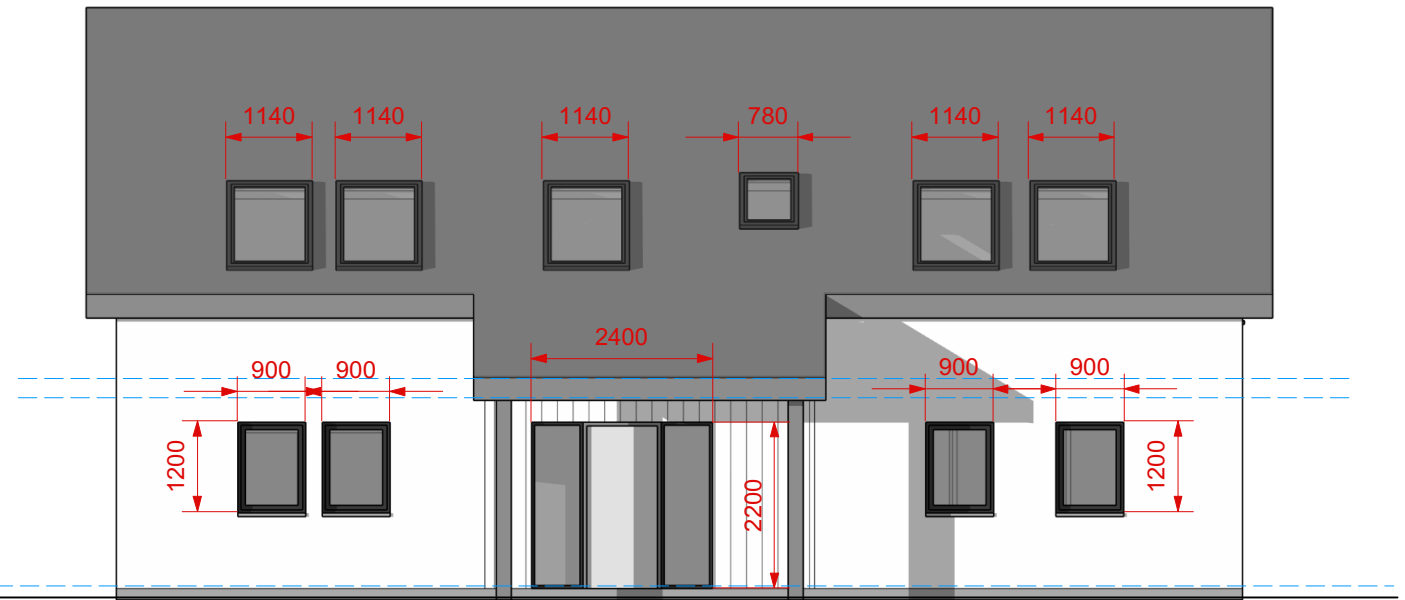
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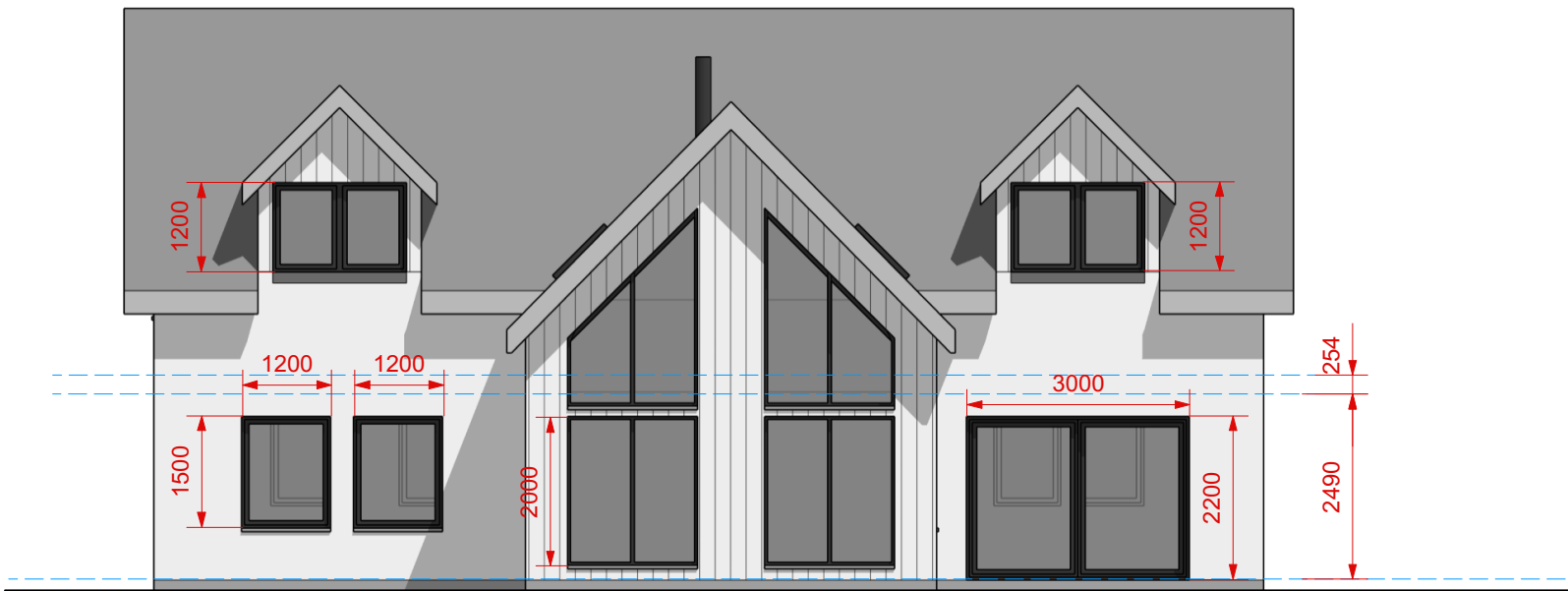
Client GILLIAN GRANT	FLOOR PLANS	MACBEATH ARCHITECTS
Project BLAIRNINICH, STRATHPEFFER, DINGWALL		
	Scale 1 : 100 A3 Sheet size Drawing No: 18/252/05	Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com



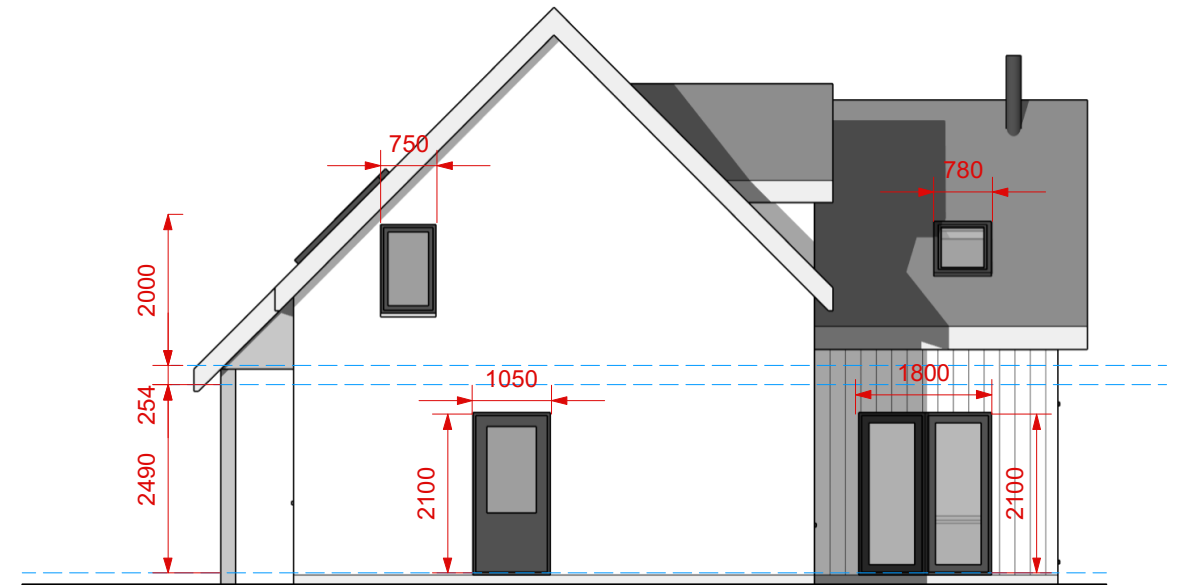
EAST ELEVATION
Scale: 1:100



NORTH ELEVATION
Scale: 1:100



SOUTH ELEVATION
Scale: 1:100



WEST ELEVATION
Scale: 1:100



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Drawings
NOT FOR
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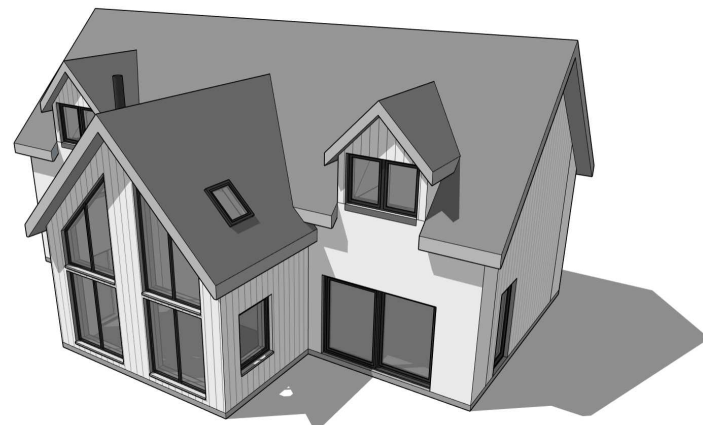
Client GILLIAN GRANT	ELEVATIONS	MACBEATH ARCHITECTS
Project BLAIRNINICH, STRATHPEFFER, DINGWALL		
Scale 1 : 100 A3 Sheet size Drawing No: 18/252/10	Morrish House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermpassive.com	

View from South West (Rear garden) ▶



◀ View from North of the site (Main approach)

▼ From left to right; View from South East, View from North West, View from South



All critical dimensions to be checked on site. No critical dimensions to be scaled from this drawing. Any discrepancies on site to be notified to the client for clarification. Up to date drawings and information must be obtained before commencement of work. Drawings may be copied by contractors and clients etc. but copyright of all designs remain with the designer.

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Feasibility
Drawings
NOT FOR
CONSTRUCTION

Client GILLIAN GRANT	3D RENDERERS	MACBEATH ARCHITECTS
Project BLAIRNINICH, STRATHPEFFER, DINGWALL		
	Scale 1 : N/A A3 Sheet size Drawing No: 18/252/15	Morrish House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com



Blairnich
Strathpeffer
Dingwall
IV14 9AB

SITE PLAN
Scale: 1:500



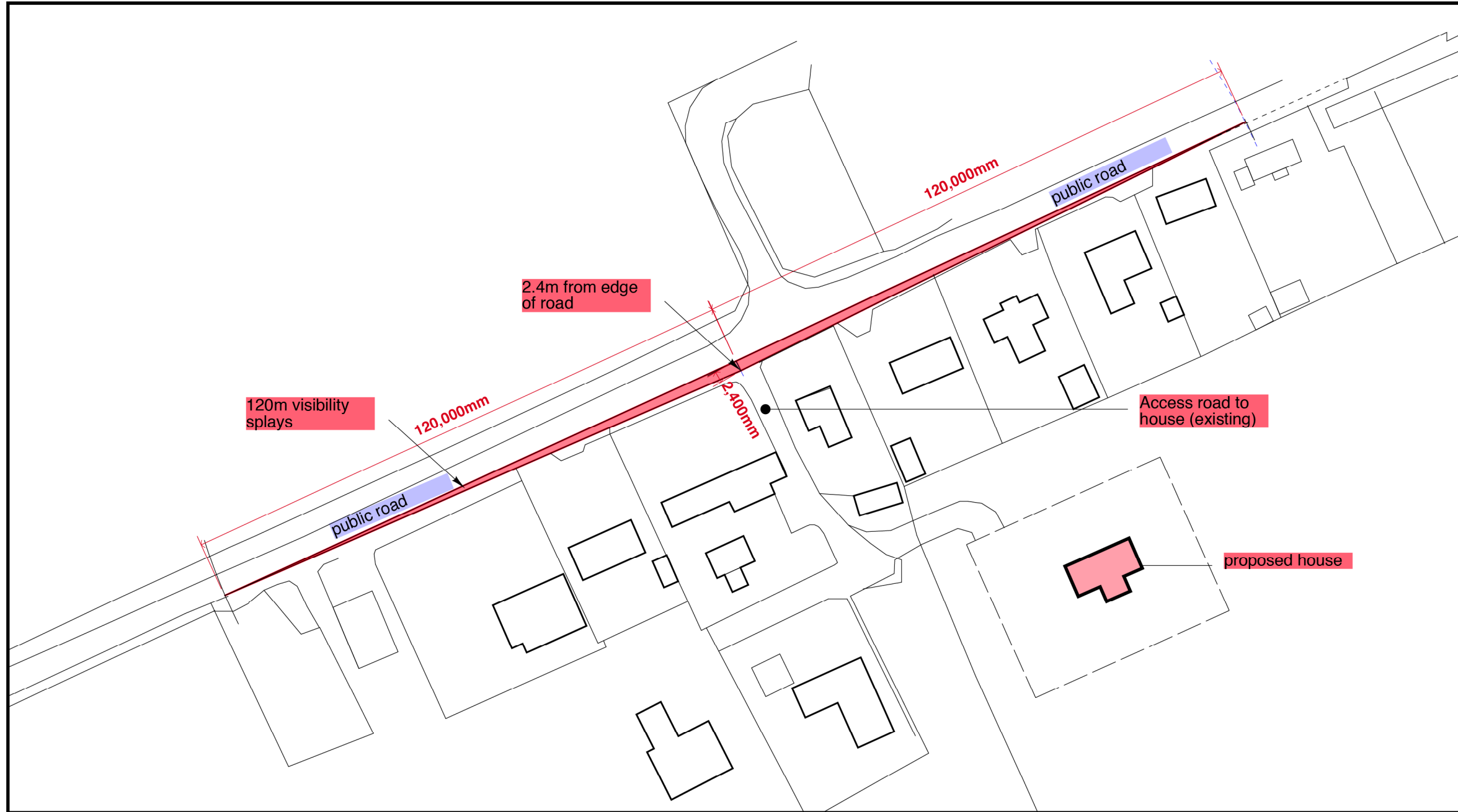
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Project BLAIRNICH, STRATHPEFFER, DINGWALL	Scale 1 : 500 A3 Sheet size Drawing No: 18/252/01	



Site Plan scale
1: 1000



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Client GILLIAN GRANT	SITE PLAN (Visibility splays)	MACBEATH ARCHITECTS
Project BLAIRNINICH, STRATHPEFFER, DINGWALL		
	Scale 1 : 500 A3 Sheet size Drawing No: 18/252/01	Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com