

Agenda Item	6.1
Report No	PLS-076-21

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 14 December 2021

Report Title: 20/03773/FUL: Lady C Lovelace
Ralia, 8 Aulnaskiach, Inverness IV2 4BB

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Change of material from obscured glass to clear glass on balustrade to south elevation (Condition 1 of planning permission 18/02831/FUL)

Ward: 14 – Inverness Central

Development category: Local

Reason referred to Committee: Manager's 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.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought to retain the clear glazing on an existing first floor balcony barrier on a house at 8 Aultnaskiach, Inverness. The house is a detached 1 ½ storey dwelling with attic space accommodation. Planning permission was granted in 2016, with a subsequent amendment in 2018, for a single storey rear extension and alterations to three rear facing dormers to form three sets of French doors opening up onto a new south facing balcony area. It is the glazing associated with the safety barrier for this balcony that is the subject of this application.
- 1.3 Pre-Application Consultation: Not applicable.
- 1.4 Supporting Information: The following information has been submitted in support of the application:
- Design Statement;
 - Photographs; and
 - Written responses to objections.
- 1.5 Variations: None.

2. SITE DESCRIPTION

- 2.1 Ralia is a detached residential property set within a large garden with access via a private road leading off Culduthel Road and located within a suburban area on the south side of Inverness city centre.
- 2.2 The site is bounded to the north by a private single track access road with a row of detached houses located along the northern side of the road; to the east is a detached single storey house that sits parallel with Ralia and is approximately 12 metres away at its closest point. To the west is No. 10 Aultnaskiach; a single storey dwelling with a northwest facing orientation and with the rear garden curtilage adjoining the application site. At its closest point it is approximately 34.5 metres away. The southern boundary of the site is defined by an area of woodland through which the Ault na Skiach runs.

3. PLANNING HISTORY (RELEVANT TO THIS APPLICATION)

- | | | | |
|-----|-------------|---|-----------------------------|
| 3.1 | 05 Feb 2016 | 15/04702/FUL: Alterations and extension to dwelling & accommodation above existing garage | Planning Permission Refused |
| 3.2 | 22 May 2016 | 16/01007/FUL: Erection of extensions including building over the garage to form accommodation, form pitched roofs over existing dormers and make some of the windows deeper | Planning Permission Granted |
| 3.3 | 04 Dec 2017 | 17/05160/FUL: Erection of porch | Planning Permission |

Granted

3.4 10 Aug 2018 18/02831/FUL: Alterations to house roof, windows, rooflights and dormers, installation of garage window and air source heat pump (in retrospect) Planning Permission Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: No.

Representation deadline: 28.10.2020

Timeous representations: 3 representations from 3 households

Late representations: None.

4.2 Material considerations raised are summarised as follows:

- a) The requirement for obscure glass on the balcony was to preserve neighbour privacy. This requirement still stands;
- b) The applicant is in breach of the terms of their previous 2018 planning permission;
- c) Irrespective of existing vegetation, it is possible to overlook adjoining gardens;
- d) The use of opaque film instead of glazing could be removed at any time and would weather;
- e) Information provided in the application is misleading, as the glazing installed has never been opaque; and
- f) The previously issued Enforcement Order should be complied with.

4.3 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.

5. CONSULTATIONS

5.1 None.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design

6.2 Inner Moray Firth Local Development Plan 2015

No specific policies apply.

6.3 Highland Council Supplementary Planning Policy Guidance

House Extensions and Other Residential Alterations, May 2015 (Non-statutory)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (Revised December 2020)

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) relevant planning history of the site
- c) impact on residential amenity
- d) any other material considerations.

Development plan/other planning policy

8.4 The applicable elements of Policy 28 of the Highland-wide Local Development Plan require proposals to be assessed on the extent to which they impact on community and residential amenity; and demonstrate sensitive siting and high-quality design. Subject to the proposal having no significant detrimental impact on residential amenity, the proposal would comply with the Development Plan.

Relevant planning history

8.5 In order to fully assess the material considerations relevant to this proposal it is considered appropriate and necessary to summarise the planning history of this development as it directly relates to this application:

8.6 In 2016 a planning permission was granted (16/01007/FUL) by the South Planning Applications Committee for a rear extension to the existing house that included altering the existing attic accommodation to enlarge three existing south facing dormer windows to create French doors, and the erection of a first floor balcony on part of the roof of the extension. The balcony would extend out approximately 2.5 metres from the French doors and be approximately 10.5 metres in length.

8.7 One of the conditions imposed on the planning permission required the installation of full height opaque glazed screens at each end of the balcony. Whilst the condition fell short of requiring the main balcony balustrade glazing being opaque,

the approved plans indicated that this glazing would be opaque.

- 8.8 On 10 August 2018 a further planning permission was granted (18/02831/FUL) that sought to address minor variations to the 2016 proposal. These variations did not directly affect the balcony area but sought to regularise other variations including new window openings; installation of a heat pump; and alterations to the roof design of part of the extension. This application was granted under delegated powers with a conditional requirement that the entire balcony barrier be finished in opaque glass within three months of the date of the permission i.e. by 10 November 2018. The development has subsequently been completed but this condition has not been complied with.
- 8.9 This application seeks to remove the requirement for the balcony safety barrier glazing to be opaque and instead leave it with the previously installed clear glazing. It should be noted that the full height opaque screens installed at each end of the balcony will remain in situ.

Impact on residential amenity

- 8.10 In support of this proposal the applicant's agent contends that impact on residential amenity has already been addressed through the installation of the full height opaque glazed end panels installed on each side of the balcony. The requirement to also install opaque glazing on the 1.1 metre high glazed safety barrier is excessive in that it would create an unnecessary visually enclosed outdoor seating area where the applicant would not be able to enjoy their garden, either when using the decking or when viewed from within any of the bedrooms themselves. In addition, such screening would seem illogical given that the applicant could stand on the balcony in order to look at the garden. Crucially, when seated, it is not possible to directly overlook either of the immediate neighbours' gardens to any significant degree that would otherwise be considered an unacceptable invasion of privacy.
- 8.11 The applicant is mindful of the planning history of the site and the requirements set out in the previous 2018 planning permission and, as an alternative, has offered to carry out screen planting within their own garden area to further mitigate any potential overlooking of the garden ground of the neighbouring property to the east. However, it is also considered that any screen planting should also include screening to the property to the west.
- 8.12 Subject to a suitably worded condition requiring additional tree and shrub planting adjacent to the east and west boundary of the site in order to mitigate the potential overlooking of the adjacent properties at nos. 6 and 10 Aulnaskiach, the proposal is considered to be acceptable.

Other material considerations

- 8.13 One objector has highlighted that the applicant should be made to comply with a previously issued 'Enforcement Order' compelling the applicant to ensure that the balcony barrier is installed with opaque glazing. For the avoidance of doubt, the Council has not taken any formal enforcement action against any party in connection with this matter and no Notices have been issued. In accordance with

the Council's Enforcement Charter, the Council has sought to resolve this matter through negotiation with relevant parties, with formal enforcement action being considered as a last resort. This approach is in line with the Scottish Government's guidance as set out in Circular 10/2009 'Planning Enforcement'.

Non-material considerations

8.14 None.

Matters to be secured by Section 75 Agreement

8.15 None.

9. CONCLUSION

9.1 Planning permission is sought to dispense with a requirement imposed on planning permission 18/02831/FUL requiring a balcony safety screen to be formed with opaque glazing, in order to mitigate the potential for overlooking of two neighbouring properties. The applicant's agent has asserted that obscure glazing would adversely affect the applicant's enjoyment of the balcony by creating an 'uninviting tub' that would prevent any views of the applicant's garden. In addition, the full height obscure glazed panels already installed at each end of the balcony are sufficient and effective in minimising any potential overlooking. Furthermore, obscure glazing would not prevent the applicant from being able to stand on the balcony and view their own garden from that vantage point and therefore the requirement for obscure glazing is excessive and unnecessary.

9.2 As an alternative, the applicant has offered to carry out additional screen planting within their garden ground to further mitigate the measures already undertaken to minimise the potential for overlooking. This is considered to be a fair and reasonable mitigation measure in lieu of the requirement to provide the opaque glazing.

9.3 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.

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers N

Conclusion of Section 75 N
Obligation

Revocation of previous permission N

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

- 1 Within 3 months from the date of this planning permission a detailed Tree and Shrub Planting and Screening Plan and Maintenance Programme shall be submitted to the Planning Authority for approval in writing. The Tree and Shrub Planting and Screening Plan shall incorporate the planting of no fewer than 10 trees and additional shrubs of which at least 50% shall be evergreen and tree sizes will be at least 3.0m tall. The tree planting shall be located in such positions as to provide effective screening of the neighbouring gardens at 6 and 10 Aulnaskiach when viewed from the balcony. Following approval of the Tree and Shrub Planting and Screening Plan and Maintenance Programme, as amended if required, the planting shall be implemented in full during the current planting season and no later than April 2022, or as otherwise agreed in writing by the Planning Authority and thereafter maintained in accordance with the approved Maintenance Programme.

The planting shall be maintained in perpetuity to ensure adequate screening of the neighbouring gardens to the east and west of the site and any trees and/or shrubs that die shall be replaced in accordance with the originally approved details.

Reason: To ensure that adequate screen planting is provided to minimise the potential for overlooking of the neighbouring gardens at Nos. 6 and 10 Aulnaskiach, in the interests of residential amenity.

REASON FOR DECISION

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.

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.

INFORMATIVES

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.

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.

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.

Signature:	David Mudie
Designation:	Area Planning Manager – South
Author:	John Kelly
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – Location Plan (PL001) Plan 2 – Elevations (PL002) Plan 3 – Floor Plan (PL003)

DO NOT SCALE, IF IN DOUBT PLEASE ASK
 All setting out must be checked on site prior to commencement. Any discrepancy must be reported to G. H. JOHNSTON Building Consultants Ltd



Planning Application

REVISIONS			
Rev.	Description	Drawn	Date
-	-	-	-

Client
Lady Lovelace

Project
**Ralia
 8 Aultnaskiach
 Inverness, IV2 4BB**

Drawing
Location Plan

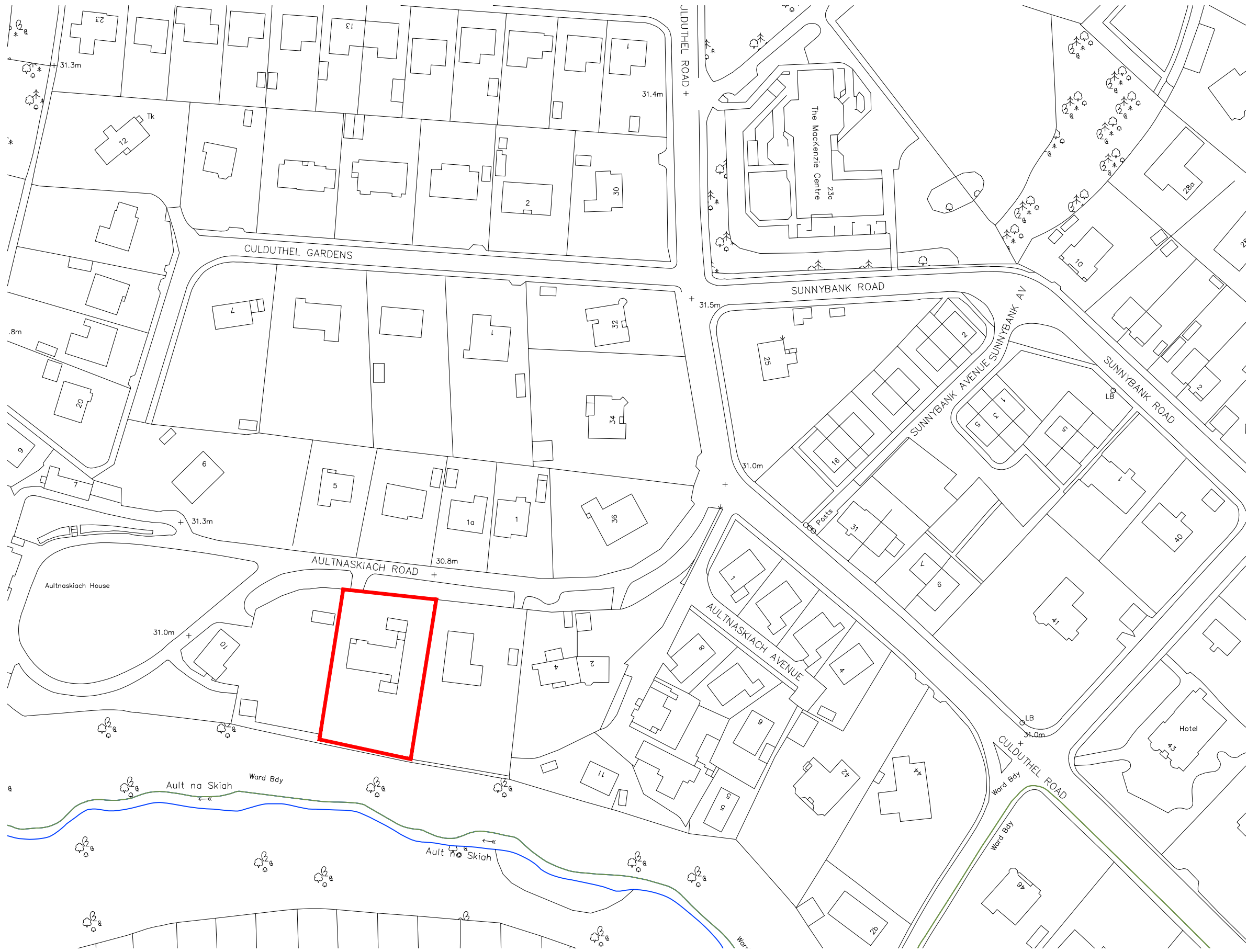
Scale 1:1250@A3	Date 09.2020	Drawn by CL
---------------------------	------------------------	-----------------------

Project no 2593	Dwg no PL001	Rev
---------------------------	------------------------	-----

G.H. JOHNSTON

BUILDING CONSULTANTS LTD

WILLOW HOUSE
 STONEYFIELD BUSINESS PARK TEL (01463) 237229
 INVERNESS IV2 7PA
 Email: technical@ghjohnston.co.uk

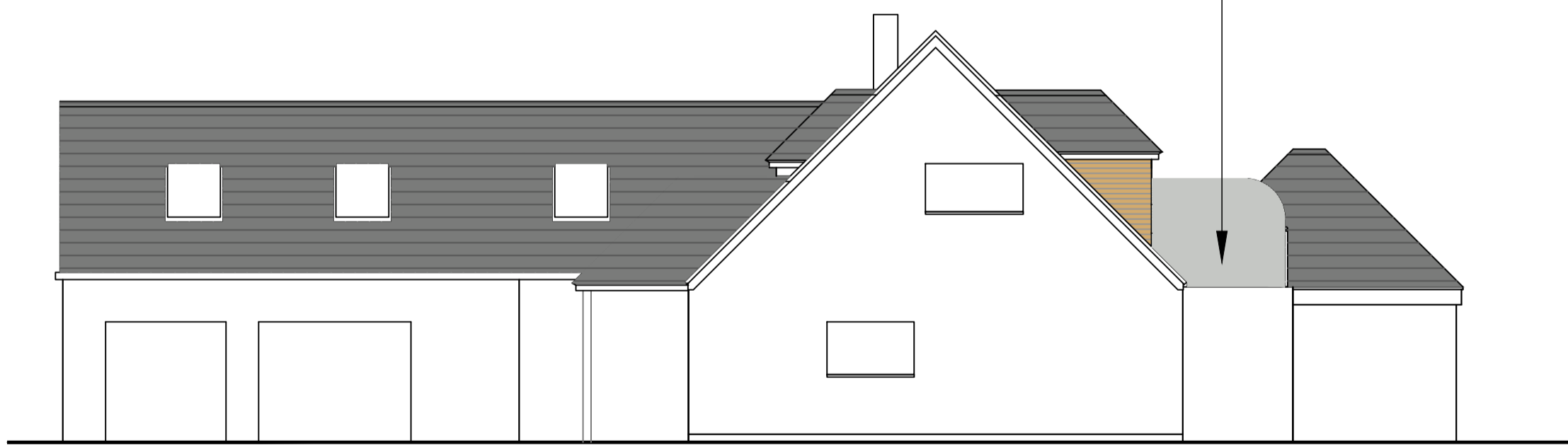




Existing Building - South Elevation
 1100mm high Protective barrier in obscured glazing



Proposed Building - South Elevations
 1100mm high Protective barrier in Clear glazing



Existing Side Elevation - West Elevation
 2000mm high existing screen to remain unchanged.



REVISIONS

Rev.	Description	Drawn	Date
-	-	-	-

Notes

Planning Application

Client
Lady Lovelace

Project
Ralia
 8 Aultnaskiach
 Inverness, IV2 4BB

Drawing
Elevations
 Existing & Proposed

Scale 1:100@A2	Date 03.2020	Drawn by CL
Project no 0000	Dwg no PL002	Rev

G.H.JOHNSTON

BUILDING CONSULTANTS LTD

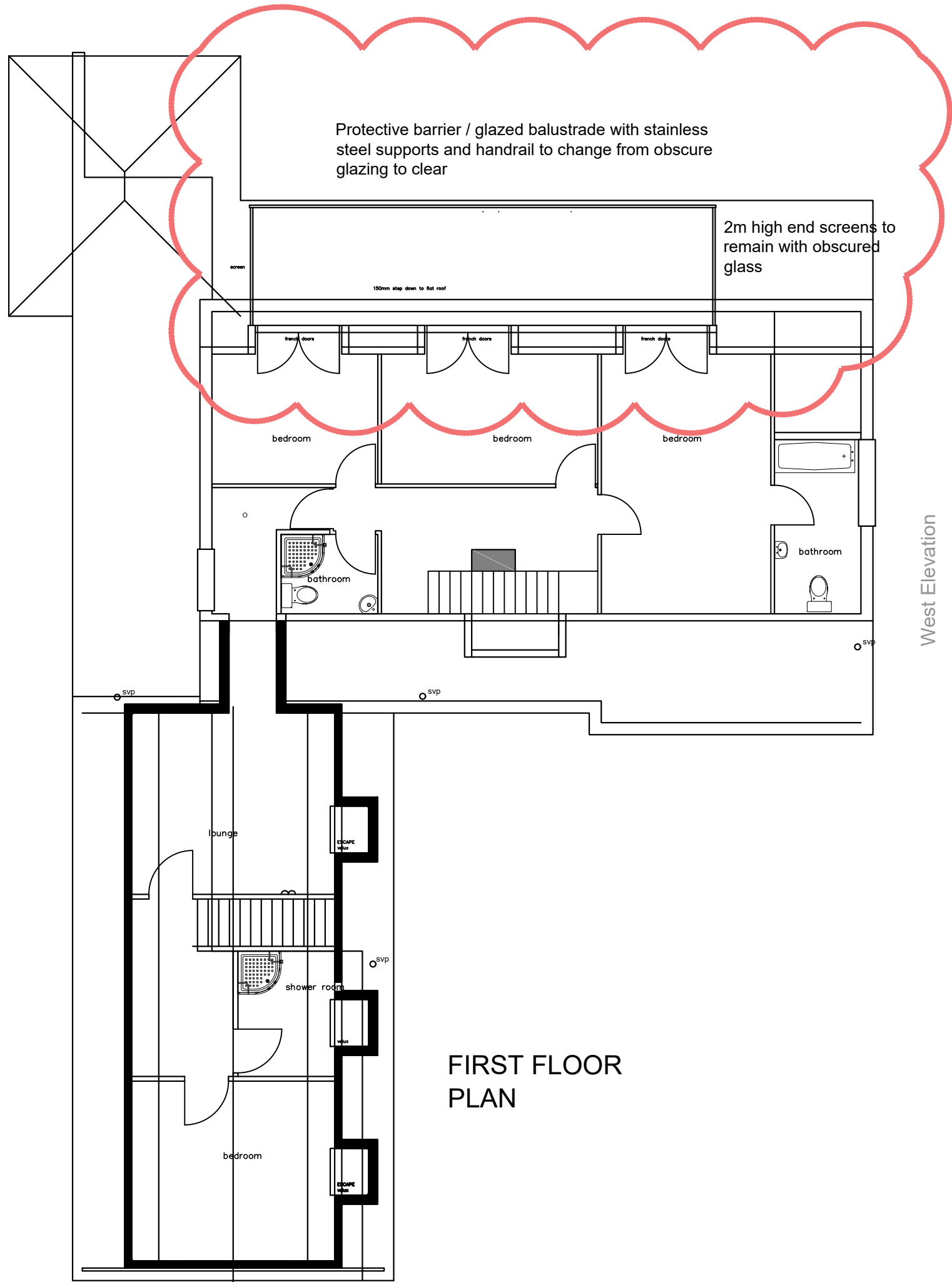
WILLOW HOUSE
 STONEYFIELD BUSINESS PARK TEL (01463) 237229
 INVERNESS IV2 7PA
 Email: technical@ghjohnston.co.uk

DO NOT SCALE, IF IN DOUBT PLEASE ASK
 All setting out must be checked on site prior to commencement. Any discrepancy must be reported to G. H. JOHNSTON Building Consultants Ltd

South Elevation

East Elevation

West Elevation



FIRST FLOOR PLAN

North Elevation



REVISIONS			
Rev.	Description	Drawn	Date

Notes

Planning Application

Client
Lady Lovelace

Project
**Ralia
 8 Aultnaskiach
 Inverness, IV2 4BB**

Drawing
First Floor Plan

Scale 1:100@A3	Date 09.2020	Drawn by CL
Project no 2593	Dwg no PL003	Rev

G.H.JOHNSTON

BUILDING CONSULTANTS LTD

WILLOW HOUSE
 STONEYFIELD BUSINESS PARK TEL (01463) 237229
 INVERNESS IV2 7PA
 Email: technical@ghjohnston.co.uk