

Agenda Item	6.3
Report No	PLN/018/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 15 March 2022

Report Title: 21/04972/FUL : M T Austin
Land 60m NW of 12 Knock Shortie Road, Portmahomack

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Erection of three houses

Ward: 07, Tain and Easter Ross

Development category: Local

Reason referred to Committee: Representations

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 **APPROVE** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The application is to erect a terrace of 3 two bedroomed houses. They will be 1 ½ storey in nature, with velux style rooflights, and finished in white dry dash harl and grey roofing tiles.
- 1.2 A new access will be formed from the turning head at the end of Knock Shortie Road through a grassed area between the play park and the existing footpath to Chapel Place to reach the proposed 3 houses which will be sited to the rear (north) of the play park.
- 1.3 Pre Application Consultation: The applicant sought pre-application advice (20/00107/PREAPP).
- 1.4 Supporting Information: Percolation test results; soakaway calculations; response to Tarbat Community Council comments
- 1.5 Variations: play area to be fenced and gated; amended access and parking arrangement.

2. SITE DESCRIPTION

- 2.1 The site is located between the existing Knock Shortie play park and farmland. Terraced housing on Chapel Place backs onto the site to the west, and detached houses at Gordon Brae back onto the site to the east.
- 2.2 The site is currently unkept grassland. It slopes up from west to east.

3. PLANNING HISTORY

- 3.1 1992/0872 Knock Shortie housing development Approved

4. PUBLIC PARTICIPATION

- 4.1 Advertised: neighbour
Date Advertised: 19/11/21
Representation deadline: 03/12/21
Timeous representations: 10 representations received
- 4.2 Material considerations raised are summarised as follows:
 - a) The access will cross the children's play area, making it dangerous
 - b) Access will reduce the size of the play area
 - c) Access will be adjacent to an existing well used footpath, creating a safety conflict between pedestrians (including those accessing the play park) and road users.
 - d) Increased traffic detrimental to health and safety of local residents, contrary Policy 30
 - e) Access will run past the back of the houses on Chapel Place, generating noise and light pollution contrary to Policy 28

- f) Need to maintain public rights of way over the new access
- g) The bin collection area is close to neighbour's boundary wall, and will lead to smells, noise, litter, vermin, public use, fly tipping, and change the character of the neighbouring property
- h) Bin collection area is too far from the houses, making it susceptible to vandalism
- i) Bin collection area will cause a blindspot for those entering / leaving the play park, leading to safety concerns
- j) Remote bin collection relies on the owner putting bins out / taking them back at appropriate times.
- k) Noise from wheeling bins
- l) Bins could blow over or lids opened and contents blown out.
- m) Insufficient parking provision for visitors
- n) Insufficient turning space for delivery vehicles
- o) Too high density / overdevelopment, out of character with the surrounding area, should only have 1 house per plot, not 3 houses (contrary Policy 28)
- p) There are some pairs of houses (semis) at Knockshortie, but no terraces and none built on different levels
- q) Houses should not be described as family homes since they only have 2 bedrooms
- r) Siting at 90 degrees to Gordon Brae is not aesthetically pleasing and contrary to orientation of adjacent housing (contrary to Policy 28 & 29)
- s) Detrimental to ambience of a rural community
- t) Houses would be used as holiday homes
- u) No supporting statement to justify the need, location and design.
- v) Will adversely affect the views from the Conservation Area, as you approach the village and look up from the beach
- w) Need to ensure that the new access to the houses is maintained
- x) Loss of privacy to neighbouring houses contrary Policy 28
- y) Deeds of Condition on the existing houses stipulates a minimum of 2m between any house and its side lateral boundary. This can not be achieved for the middle house.
- z) Deeds of Condition specifies that the main front elevation will face towards the new access roadways.
- aa) Fencing off the play park will detract from the visual amenity of the area.
- bb) Steep hill is a safeguarded site and suitable for at most one house at the bottom of the hill
- cc) Loss of views from neighbouring house
- dd) Contravenes requirements for developer contributions to erect the play park as a condition of the original planning permission

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 **Tarbat Community Council** objects. The proposal fails to conform to the original outline planning permission. The title deeds of each plot contain burdens limiting each plot to be used for the erection of not more than 1 house, and that there should be at least 2m between any house and its side / lateral boundary.

The outline planning permission was granted after lengthy consultation, deliberation and negotiation. Its aim was to facilitate a high quality low density development. It would be unreasonable to grant a permission that allowed one of the final phases to be built at a higher density. People bought their houses on the Knock Shortie estate on this basis.

The design brief approved as part of 1992/872 (outline planning permission for the Knock Shortie development) stipulates that there should be at least 2m between each house and the side/lateral boundary. The expectation therefore is one house on each plot. Out of the existing pairs of houses at Knockshortie, two of the pairs were built on two separate plots, not two houses on one plot. The expectation of one house on each plot has been overridden very infrequently, and then only for 2 houses, not 3.

Policy 28 provides that proposed developments should demonstrate sensitive siting and high quality design in keeping with the local character. Policy 29 provides that the applicant should demonstrate sensitivity and respect toward the local distinctiveness of the landscape, architecture, design and layouts. Building three tightly compacted houses on a plot where all other plots are restricted to one house does not demonstrate conformity to these and would represent overdevelopment.

Houses in Portmahomack are being acquired by non residents for short term holiday lets. The adverse consequences for the sustainability of small communities becoming dominated by holiday lets are well known, and if the present trends continue, Portmahomack will increasingly suffer these consequences. The impact and the contribution of this development on individual and community amenity and contribution to the economic and social development of the community are likely to be negative.

The Community Council has been engaged in seeking funding to replace equipment in the play park.

An unfenced roadway to the 3 houses immediately adjacent to a play park is not safe, even with speed bumps. Policy 30 requires the Council to ensure that proposed developments do not adversely affect human health and safety. A risk assessment would indicate that pedestrians, especially children, would be exposed to risk from road traffic. Once this risk is identified, the correct mitigating action would be to erect a fence for the play park. If approved, a fence should be erected at the same time as the house building.

The bin storage will be located on part of the land currently forming part of the play park. It will present dangers to children, noise, nuisance to neighbours, attract vermin and seagulls. It would also be a breach of faith with residents who believed that they would live alongside a play park and not a repository for other people's rubbish.

The location of the wheelie bin store is inappropriate. If approved, bin storage should be within a walled enclosure and not open plan.

According to the 1873 OS map, the site is close to the site of a chapel and close to an area of stone cists, some containing skeletons, others urns with bones and ashes. If any cists or other artefacts were to be discovered on the site or the proposed access to it, modern knowledge of ancient burial practices and archaeological techniques would facilitate a better understanding of the early history of

Portmahomack. It is also possible that the site may be on land forming part of the settlement of Baleknock on a map produced between 1583 and 1614. An archaeological condition is requested.

- 5.2 **Historic Environment Team (Archaeology)** comment that the area is considered to have potential for important archaeological deposits and features, possibly human remains, to survive. Condition requested for the area to be the subject of an evaluation in order to establish the archaeological content and potential. Dependent of the results of this work, further study maybe required.
- 5.3 **Transport Planning** comment that in the interests of safety, they would expect play parks sited adjacent to private driveways to be enclosed. This proposal has no impact on the public road network so they have no further comment to make.
- 5.4 **Development Plans** comment that the site sits within a defined 'other settlements' and Policy 3 is applicable. The Council is generally supportive of development providing it meets the criteria listed in the policy. These criteria ensure the site makes best use of the land, infrastructure and capacity within the community, whilst ensuring the development does not detrimentally affect existing uses.

Given the proximity to Chapel Place properties and in compliance with the Council declared Climate and Ecological Emergency, a development of 3 mid-marked terrace houses on this site is considered to make best use of the land, existing infrastructure and services, whilst protecting existing residential amenity in compliance with IMFLDP Policy 3.

Developer contributions are required.

- 5.5 **Scottish Water** has no objection. There is currently sufficient capacity in the water treatment works. There is currently sufficient capacity for a foul only connection in the waste water treatment works. Capacity can not be reserved.

The proposal impacts on existing Scottish Water assets. Potential conflicts may be subject to restrictions on proximity of construction. These must be identified with Scottish Water assets.

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
- 29 - Design Quality and Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 36 - Development in the Wider Countryside
- 57 - Natural, Built and Cultural Heritage
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

6.2 **Inner Moray Firth Local Development Plan 2015**

Policy 3, other settlements.

6.5 **Highland Council Supplementary Planning Policy Guidance**

Access to Single Houses and Small Housing Developments (May 2011)

Developer Contributions (March 2018)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (as amended December 2020)

National Planning Framework 3

Creating Places

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) access
- c) parking
- d) bin store
- e) archaeology
- f) Impact on infrastructure and services and proposed mitigation (developer contributions)
- g) any other material considerations

Development plan/other planning policy

- 8.4 Policy 3, other settlements (IMFLDP) assesses developments against the extent to which they:

- are located within active travel range of at least one community/commercial facility and the proposal is likely to help sustain that facility;
- are similar in terms of spacing, scale and density to development within or adjoining the settlement;
- may harm the character and social balance of that community or regenerate a community that is losing facilities, services and/or its permanent resident population;
- can utilise spare capacity in the infrastructure network
- avoid a net loss of amenity/recreational areas significant to the wider local community;
- would result in an adverse impact on any other locally important heritage feature.

- 8.5 The site lies within the settlement of Portmahomack, and is accessed off the Knock Shortie Road via the Chapel Hill housing development. The access will pass the existing play park with the houses sited on an area of rough grassland to the rear. The land on which the access will be sited lies outwith the area of the play park as approved. Although it was supposed to have been fenced off from the park and left as rough grassland, the fence was never erected which led to it being mown as part of the maintenance of the adjacent play park, and thus it has the general appearance of forming part of the play area.
- 8.6 The original planning permission, 1992/0872 included an indicative layout showing the roads, plots, and an area of amenity land, of which this site formed a part. However, the layout evolved over time, and the approved play area corresponds to that currently on the ground and excludes this application site. Therefore, the play park will not be reduced in size as a consequence of this proposal. There will not be a loss of amenity/recreational area.
- 8.7 The site lies adjacent to an existing footpath which provides an active travel link between the Chapel Hill housing development and the village centre and facilities. This will be retained and lies outwith the application site boundary. Furthermore, the proposed additional 3 houses will help to sustain the existing facilities in Portmahomack (including shop, café, public house, school, church).
- 8.8 There is an existing terrace of houses at Chapel Place which back onto the site. The vehicular access to the site will be via the Chapel Hill housing development, which is characterised by low density large detached houses. The play park lies adjacent to the site, and is overlooked by the Chapel Hill houses which are elevated above the site. The site therefore sits between an area of high density and low density housing. The site itself slopes up from the Chapel Place houses to those on Gordon Brae to the east, bridging these two different densities, housing styles, and different levels on which the houses are built.
- 8.9 There are already several pairs of semi-detached houses which form part of the Chapel Hill scheme, namely 10a and 10b Knockshortie Road, and 2a, 2b, 3a, 3b, 9a, 9b, 10a, 10b, and 11a and 11b Carnegie Place. The proposal is therefore not dis-similar to the spacing, scale and density of other nearby development.

- 8.10 There is no visible heritage feature on or adjacent to the site. Historic records suggest that the site has archaeological potential, and a condition can be used to ensure that this is properly investigated and that the proposal does not result in an adverse impact on any heritage feature.
- 8.11 Since the original planning permission for the Chapel Hill development, the Council has declared a Climate and Ecological Emergency. Development should therefore make good use of land, infrastructure, and capacity in the community, whilst not detrimentally affecting existing uses. The proposed terrace of 3 mid-market houses on this site is considered to make good use of the land, existing infrastructure, and services, subject to the payment of developer contributions to help address capacity limitations at Tarbat Primary School (1 classroom extension), and public realm and public art improvements in the form of contributions towards improvements to the play park equipment or benches. The developer is in agreement to this.
- 8.12 The proposed 3 houses can therefore be assessed as complying with Policy 3.

Design and siting

- 8.13 This site, shown as Plot 21, forms one of the larger sites in the Chapel Hill housing development. It is actually slightly larger than the area which is currently occupied by 10a, 10b, 11a, and 11b Carnegie Place (4 houses, two pairs of semis), but it is proposed to build a row of 3 houses on this site. It follows that the footprint of these 3 houses occupies a lesser extent of the site than that of these 4 existing houses on Carnegie Place, and is thus at a lower density. The proposed row of 3 houses will also be seen against the terrace of houses which characterises Chapel Place which backs onto the site to the west.
- 8.14 The main Issue is whether these proposed 3 houses are at a suitable density and of an appropriate design to integrate visually into the character of the surrounding area.
- 8.15 Policy 28 assesses development against a number of factors, including demonstrating sensitive siting and high quality design in keeping with the local character and the historic and natural environment, and making use of appropriate materials. Similarly, Policy 29 requires that new development makes a positive contribution to the architectural and visual quality of its location, and demonstrates sensitivity and respect towards the local distinctiveness of the landscape, architecture, design and layout.
- 8.16 The proposed 3 houses are sited fairly centrally within the plot, with a substantial set back from the rear of the houses on Chapel Place (approximately 11m) and again approximately 7m from the boundary with the detached house at 3 Gordon Brae to the east. The 3 houses also occupy a relatively small footprint since each are only 2 bedrooled, measuring approximately 9m x 21.65m for the row of 3. This gives a spacious feeling to the development, since there is ample space around the building, and the building volume in itself is not excessive, being 1 ½ storey and smaller than that of the larger detached houses at Chapel Hill.
- 8.17 The houses will step up the hillside, each one being approximately 0.9m higher than the adjacent house. This also breaks up the elevation, and prevents a feeling of undue massing. The design utilises wide gables, and a steeply pitched roof with

velux style rooflights at first floor level. This results in a roof slope which is disproportionately high compared to the wallhead. However, this is an identical house type to the pairs of semi-detached houses which have already been built at 10a and 10b Knock Shortie Road, except that a row of 3 houses is proposed instead of a row of 2, and the houses now proposed include a peaked roof over the front door. The houses will therefore integrate in a satisfactory manner.

- 8.18 The design brief that was approved as part of the original Chapel Hill development (1992/0872) did stipulate that there should be at least 2m between houses and lateral boundaries. This suggests that there should be only 1 house per plot, since otherwise the 2m can not be provided for semis or terraced houses. However, for the existing pairs of semi-detached houses the 2m has only been applied to the end walls and not to the party wall, and a similar principle should be applied to this proposed row of 3 houses. Using this principle, the proposal complies with this requirement.
- 8.19 The houses will be finished in white dry dash harl and grey roofing tiles. This, too reflects the materials of other houses in the Chapel Hill housing development.
- 8.20 The stepping of the houses up the hillside is an appropriate treatment for a sloping site, and works with the levels of the land. The end house (east) will be dug down into the hillside and a retaining wall used between it and the neighbouring house up the hill at 3 Gordon Brae. This helps the house to nestle comfortably into the slope. The slope is not excessive and can accommodate the proposal in a satisfactory manner.
- 8.21 Objectors point out that the design brief for the original planning permission 1992/872 stipulates that the front elevation will face towards the new access roadways. This proposal utilises a private access driveway to serve the 3 houses, not an adopted roadway. It does, however, result in the principle elevation looking onto the public space. This is the same outcome as when a house is orientated with its principle elevation towards a public road. Therefore, although the houses do not front the access driveway, they do front a public space. This is an appropriate orientation.
- 8.22 The houses are orientated to look towards the play park. This leads to an active frontage towards the public realm, creating visual interest which is appropriate. It also leads to a sense of enclosure, forming an end view between the existing houses which back onto both sides. The orientation will also aid passive surveillance and thus discourage antisocial behaviour and mis-use of the play area.
- 8.23 The houses will be located on an area of rough, unmaintained grassland, which has little amenity value. The access to the proposed houses will be across grass which, although outwith the play park boundary, has been mown alongside the adjacent play park. The proposal should lead to an overall improvement in the visual quality of this space through the active use and future maintenance of the currently neglected space at the rear of the play park.
- 8.24 The design and orientation of the houses is appropriate. Although a terrace of 3 houses is proposed, there remains adequate space around the houses to avoid a sense of cramming or overdevelopment.

Residential Amenity

- 8.25 The orientation of the houses will result in views from the houses across the play park, and views towards the farm land to the rear. There will be no windows looking towards the houses on Gordon Brae to the east. Furthermore, the house at 3 Gordon Brae is elevated above the site, and the proposed houses will be built into the site, with a retaining wall between the gable of the end house and the side boundary with 3 Gordon Brae. The levels are such that the house at 3 Gordon Brae will largely look onto the roof and over the proposed houses, and thus privacy will be retained. Similarly, there will be no direct views from the proposed houses of the private rear garden grounds of 3 Gordon Brae, and again, the difference in levels will help prevent indirect views and preserve privacy.
- 8.26 A side window is proposed for the end house looking towards Chapel Place, to the west. This will look onto the side garden grounds of the proposed end house, and the boundary with the houses on Chapel Place will be in excess of 11m away. It is usual to seek a minimum of 18m between opposing windows in order to guard against overlooking and loss of privacy, and a minimum of 9m garden depth in order to split this distance fairly between both property, and ensure adequate garden grounds to preserve amenity for both. The proposed 11m between the house gable and the side boundary is therefore in excess of this requirement. Furthermore, the houses at Chapel Place are all located in excess of 10m away from the site boundary. Adequate space exists to guard against loss of privacy to the existing neighbouring houses.
- 8.27 Similarly, there is adequate separation to not result in a material loss of daylight or sunlight to neighbouring houses from the proposed development.

Building on an area of excessive slope

- 8.28 Policy 30, physical constraints, requires developers to ensure that proposals do not adversely affect human health and safety. Where a proposed development is affected by one of the listed constraints, developers must demonstrate compatibility with the constraint or outline appropriate mitigation. One of the listed constraints is an area of excessive slope, since this can lead to increased erosion, landslides and increased fire hazard.
- 8.29 The stepping of the houses up the hillside is an appropriate treatment for a sloping site, and works with the levels of the land. The end house (east) will be dug down into the hillside and a retaining wall used between it and the neighbouring house up the hill at 3 Gordon Brae. This helps the house to nestle comfortably into the slope. The slope is not excessive and can accommodate the proposal in a satisfactory manner.

Bin Collection Point

- 8.30 The proposed access to the 3 houses will be via a private access driveway, and not a public road. As is commonplace for a private access, it is proposed that the bins will be collected from a point where it joins the public road. Accordingly, a bin collection area is shown which is remote from the proposed houses, at the point where the access joins the public road. This is also adjacent to the play park

entrance, and close to existing houses at Knock Shortie. Concerns that the bins will not be managed responsibly, and that issues with litter, vermin/seagulls, and smell could result are understood. However, this proposal is no different than other situations commonplace across Highland where the bins are collected from a communal point remote from the house.

- 8.31 The bin collection point will be an area of hardstanding recessed from the pavement, and enclosed by a wall to match that of the adjacent house (12 Knockshortie Road). This will help to avoid the bins being blown over, and help to keep them in a neat and tidy condition. The bin collection point is not intended to form a permanent bin store remote from the houses, but to designate a space adjacent to the public road where the bins can be placed for emptying on collection day. The use of the space on this basis should not lead to smells, noise, or litter arising, and should not attract vermin. The Planning Authority is, however, unable to ensure that the space is used in the manner intended, and its proper operation will rely on the occupiers of the proposed houses acting in a responsible manner.
- 8.32 The bin store will be stepped back from the edge of the pavement. Although young children may not be able to see over the proposed wall or bins, the location is such that those using the play park can emerge safely onto the pavement, and not directly into the new access driveway and potentially the path of traffic.
- 8.33 A certain amount of noise will result from the wheeling of bins to the collection point and the return of them to the house following emptying. This will only be one day per week for 3 bins, which is not assessed as significant and will not result in a material loss of amenity to nearby residents.

Access

- 8.34 Transport Planning are satisfied that the proposal has no impact on the public road network. They comment that, in the interests of safety, they would expect play parks sited adjacent to private driveways to be enclosed. It is therefore appropriate that the proposal has been amended to include the fencing off of the play park.
- 8.35 The traffic generated will relate to three two bedroomed houses only, and will therefore be of low volume. It is recognised that the access will in part be sited alongside an existing footpath, but this is a similar scenario to that of a road with a pavement alongside. Furthermore, a speed bump is proposed where the access joins the public road, leading to low traffic speeds along the proposed new access.
- 8.36 The proposal includes the erection of a 1.2m high fence along the west boundary of the play park, and the installation of gates at the play park entrance, which will prevent children being able to run out of the play park and onto the access driveway, whilst permitting access to maintenance vehicles. The proposed fence will be open in nature, similar to railings but with a bow top. This will maintain views into and out of the play park. It will not dominate views since it will be 'see through', and consequently will not detract from the visual amenity of the area, nor impact on the inter-visibility between users of the access driveway and users of the play park.
- 8.37 The noise from cars passing along the new access will not be significant, again due to the low number of movements which will be generated.

- 8.38 There is the potential for car headlights to shine into the rear of the houses on Chapel Place to the west of the site. However, the traffic travelling along the access will be not be pointing towards the rear of the houses on Chapel Place, except when manoeuvring or leaving the parking area. There are only 4 spaces in this parking area, with the rest of the parking being provided within the curtilage of the end house, and in parallel parking spaces alongside the access. Vehicle headlights will only therefore be shining directly towards the rear of the Chapel Place houses briefly whilst vehicles are leaving their parking spaces. There is currently a mixture of boundary treatment to the rear gardens of the houses on Chapel Place, so residents could have car headlights shining onto the rear of their houses.

Parking

- 8.39 The parking arrangement has been amended since the application was initially submitted, and now incorporates 3 visitor parallel parking spaces, in addition to 2 spaces per house. The Council's guideline standards require a minimum of 2 parking spaces per house for 2 bedroomed property, and the proposed provision of 3 spaces per house is therefore in excess of this requirement. The parking spaces are also in close proximity to the houses, and thus conveniently located. This will discourage visitors from parking elsewhere in the Chapel Hill housing scheme.
- 8.40 The space available for turning of delivery vehicles is dimensioned as per the turning space for a private car. This is sufficient for the majority of delivery vehicles which are sized similarly to private cars / light goods vehicles.

Archaeology

- 8.41 The area is considered to have potential for important archaeological deposits and features, possibly human remains, to survive. A condition is therefore proposed to require the area to be the subject of an evaluation in order to establish the archaeological content and potential. Dependent of the results of this work, further study maybe required.

Other material considerations

- 8.42 The views from the Conservation Area as you look up the hill are already of Chapel Place and the Chapel Hill housing development. This proposal will not materially impact on this existing view.
- 8.43 There will be nothing in place to prevent public access across the proposed new access. Access to the play park will be retained.
- 8.44 The maintenance of the communal spaces including the access driveway can be covered by a condition to require a factoring agreement.
- 8.45 There are no other material considerations.

Non-material considerations

- 8.46 The issue of describing the proposed dwellings as family housing is not a material planning consideration.

- 8.47 The issue of who will live in the proposed dwellings is not a material planning consideration; similarly, their potent to be rented out as holiday letting units is not a material planning consideration.
- 8.48 A supporting statement, although commonly submitted, is not a requirement for applications of this nature.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.49 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:
- a) upfront payment of £10,000. This is comprised of £7,713 towards a 1 classroom extension at Tarbat Primary School (2,571 per house), and £2,287 total towards the upgrade of the play park (public realm/ public art).

9. CONCLUSION

- 9.1 The proposal does not reduce the area of the play park. Safety concerns have been satisfactorily addressed by proposing to fence off the play park. The access and parking arrangements are satisfactory. The allocation of an area for the storage of bins where a private access joins a public road is commonplace in Highland and an appropriate treatment. The design and materials match that of other houses in the Chapel Hill housing scheme and is appropriate. Although it was believed locally that this plot would accommodate one house, and development would therefore be at a low density, the site is sufficiently dimensioned to accommodate a row of 3 small houses without a feeling of cramming arising. The proposal will integrate into the character of the area in a satisfactory manner.
- 9.2 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.

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	Y	Upfront payment of developer contributions
Notification to Scottish Ministers	n	
Conclusion of Section 75 Obligation	n	
Revocation of previous permission	n	

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

1. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref. 1196/22 Rev B shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

Reason: To ensure that an adequate level of access is timeously provided for the development; and in order to ensure that the level of off-street parking is adequate, in the interests of road safety and amenity.

2. Prior to the first occupation of the development hereby approved, the Knock Shortie play park shall be fenced and gated as detailed on approved plan ref. 1196/22 Rev B. Thereafter, the fencing and gates shall be maintained and retained in perpetuity.

Reason: In the interests of safety and amenity.

3. No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the archaeological and historic interest of the site

4. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
 - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
 - ii. A plan showing existing landscaping features and vegetation to be retained;
 - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
 - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
 - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

5. No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site green spaces and/or woodland and/or sports facilities and/or play areas and/or other spaces, facilities, features or parts of the development that are not the exclusive property of any identifiable individual home owner (such as communal parking areas, the common entrances to flatted developments and estate lighting, and those elements of surface water drainage regimes not maintained either by the Council or Scottish Water), have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

Reason: To ensure that all communal spaces, facilities and landscaping areas are properly managed and maintained.

6. The wheelie/kerbside recycling bin collection area shown on the approved plans shall be constructed prior to the first occupation of the development and thereafter maintained in perpetuity.

Reason: To ensure that suitable provision is made for the collection of communal waste and recycling bins.

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.

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.

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.

Septic Tanks and Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

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 NatureScot 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 NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Designation: Area Planning Manager – North
Author: Susan Hadfield
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - 3257-134 Rev C Location Plan
Plan 2 - 1196-22 Rev B Site Layout Plan
Plan 3 - 1196-21 Rev B Floor/Elevation Plan
Plan 4 - 3690:100 Drainage Layout Plan

Appendix 2

Type	COMPLETE FOR LEGAL AGREEMENTS AND UPFRONT PAYMENTS				REQUIRED FOR LEGAL AGREEMENTS ONLY				
	Contribution	Rate (per house)	Rate (per flat)	Total Amount*1	Index Linked ¹	Base Date*2	Payment Trigger*3	Accounting Dates*4	Clawback Period*5
Schools²									
Primary – Build Costs	1 classroom extension at Tarbat Primary School	£2,571		£7,713	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Primary – Land Costs	n/a				BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Build Costs	n/a				BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Land Costs	n/a				No		TOC/CC	Apr/Oct	15 or 20
Community Facilities	n/a				BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Affordable Housing									
On-site provision ³	n/a	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Off-site provision ⁴	n/a	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commuted Sum ⁵	n/a	N/A	N/A		N/A	N/A	Insert specific payment date	N/A	5 Years
Agreement for Delivery Needed	n/a	N/A	N/A	N/A	N/A	N/A	Insert date for submission to Planning Authority	N/A	N/A
Transport									
Active Travel	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Safer Routes to Schools	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Public Realm	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Wayfinding	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Public Transport	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20

¹ If the contribution is to be used towards infrastructure projects involving building e.g. new school, new cycle route etc BCIS ALL IN TENDER will be the index, if it doesn't involve building then another appropriate index may need to be chosen with the agreement of Team Leader

² Indicate whether or not 1 bed houses/flats are exempt

³ Indicate whether a penalty payment due for late delivery (and, if so, what it is based upon).

⁴ As above

⁵ Indicate whether a penalty payment is due for late payment of commuted sum (and, if so, what it is based upon)

School Transport	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Road Improvements	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Parking	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
EV Charging	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Traffic Signals	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Lighting	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Road Traffic Orders	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Cumulative Transport Contributions	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Green Infrastructure									
Open Space	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Green Network	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Built/Natural Heritage	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Water and Waste									
Catchment Improvement Works	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Strategic Flood Scheme	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Maintenance of SuDs	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Off Street Waste Storage	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Recycling Point Provision	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Glass Banks	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20
Public Art	upgrade / replacement of play equipment			£2,287	BCIS		TOC/CC	Apr/Oct	15 or 20
Other (Please Specify)	n/a				BCIS		TOC/CC	Apr/Oct	15 or 20

*1 Adjust total to take account of flat exemptions

*2 Base Date – Set out in Supplementary Guidance on Developer Contributions

*3 TOC/CC – The earlier of the issue of either a temporary occupation certificate or a completion certificate – or specify alternative time if appropriate

*4 Accounting dates - 1 April and 1 October each year of development (if the contribution is to be paid on a basis other than related to units completed in the preceding 6 months (e.g. lump sum on a specific date) then indicate this instead of the Apr/Oct payment dates)

*5 Clawback – 15 years for Major development; 20 years for Local development

Other Legal Agreement requirements – n/a

Type	Details
Bond	1. Describe the purpose of the Bond

	2. Specify the amount to be secured
	3. Restriction on Bond provider
	4. Set the review date and mechanism for review
	5. Describe the call on circumstances
	6. Any other relevant details
Habitat Management Plan	1. Describe what the Plan is to cover
	2. Describe the area the Plan is to cover (and provide a plan)
	3. Set the timetable for submission of the Plan
	4. Set the timescale for implementation of the Plan
	5. Describe requirements to consult third parties
	6. Specify the financial contribution (if any)
	7. Specify the clawback period (if any)
	8. Any other relevant details
Road Survey	1. Specify the timescale for the initial survey
	2. Describe which roads are to be surveyed (provide a plan)
	3. Specify an interim survey date (if required)
	4. Specify the final survey requirements and timescale
	5. Any other relevant details
Land and Asset Transfer	1. Describe the area of land / asset to be transferred (provide a plan)
	2. Describe the use of the land / asset
	3. Specify the cost of transfer
	4. Any other relevant details

M T Austin

CONSULTING CIVIL AND STRUCTURAL ENGINEERS
 4 DUNDAS CRESCENT
 KIRKWALL, ORKNEY
 KW15 1JQ Email: info@mtproperties.co.uk

Contract
 Housing Development
 Knock Shortie, Portmahomack, Ross-Shire

Drawing No.
 3257/ 134

Rev
 C

Client
 M T Austin

Drawn
 AB

Checked

Description
 Location Plan

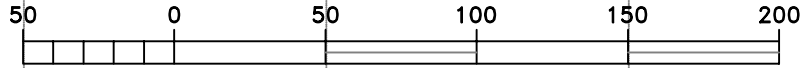
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Purpose of Issue for approval, not for construction

Date 09/02/04

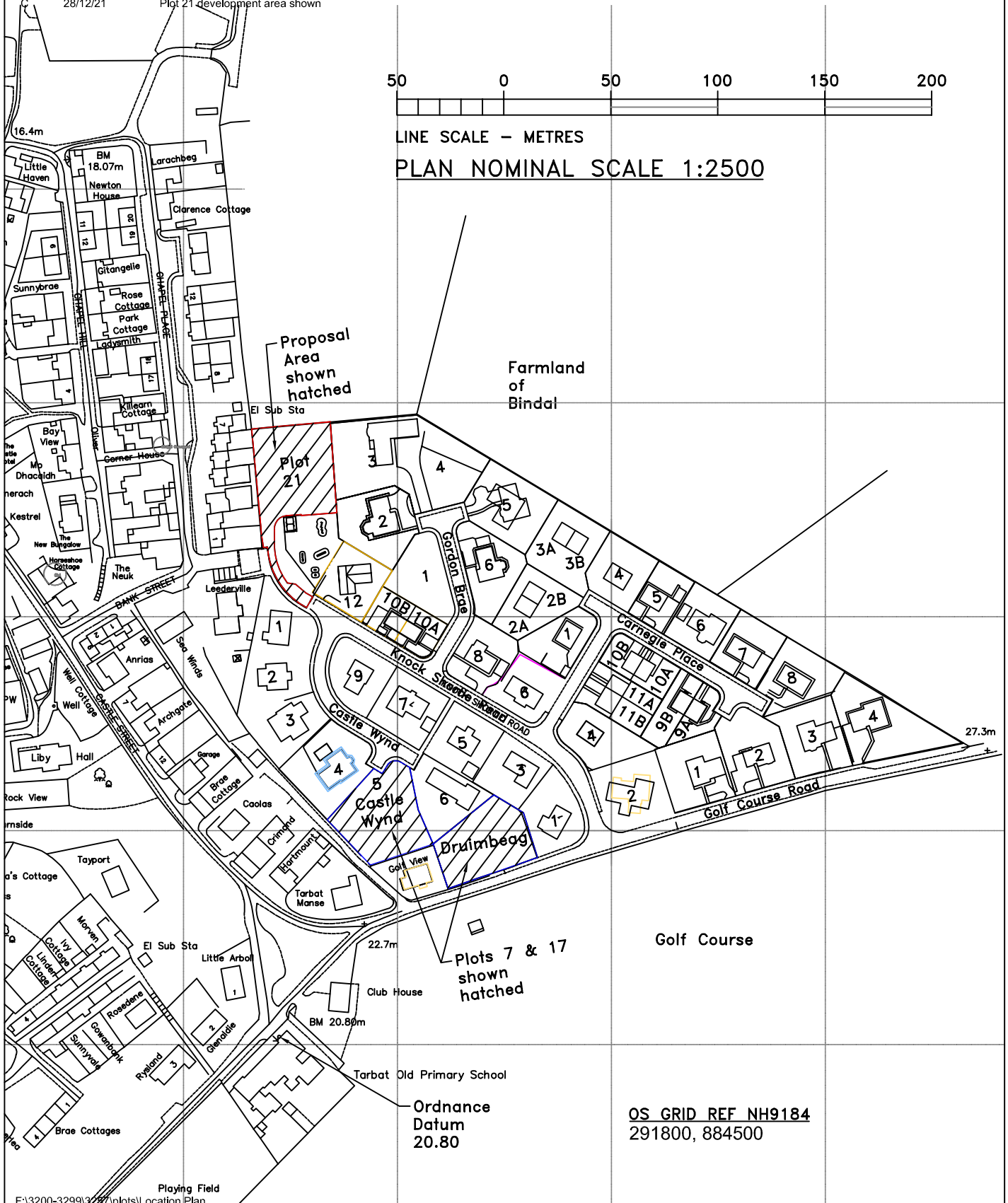
Rev	Date	Description
A	11/05/04	Castle Wynd plot numbers corrected
B	14/05/12	General update
C	28/12/21	Plot 21 development area shown

Do not scale off drawing

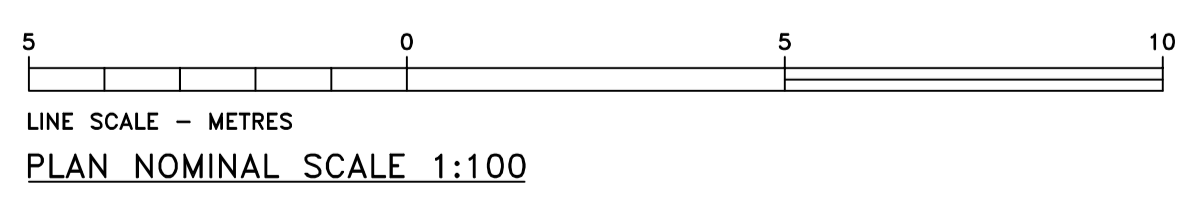
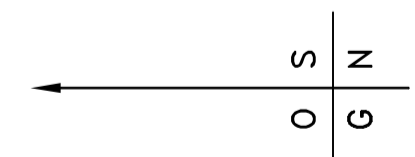
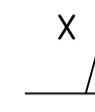
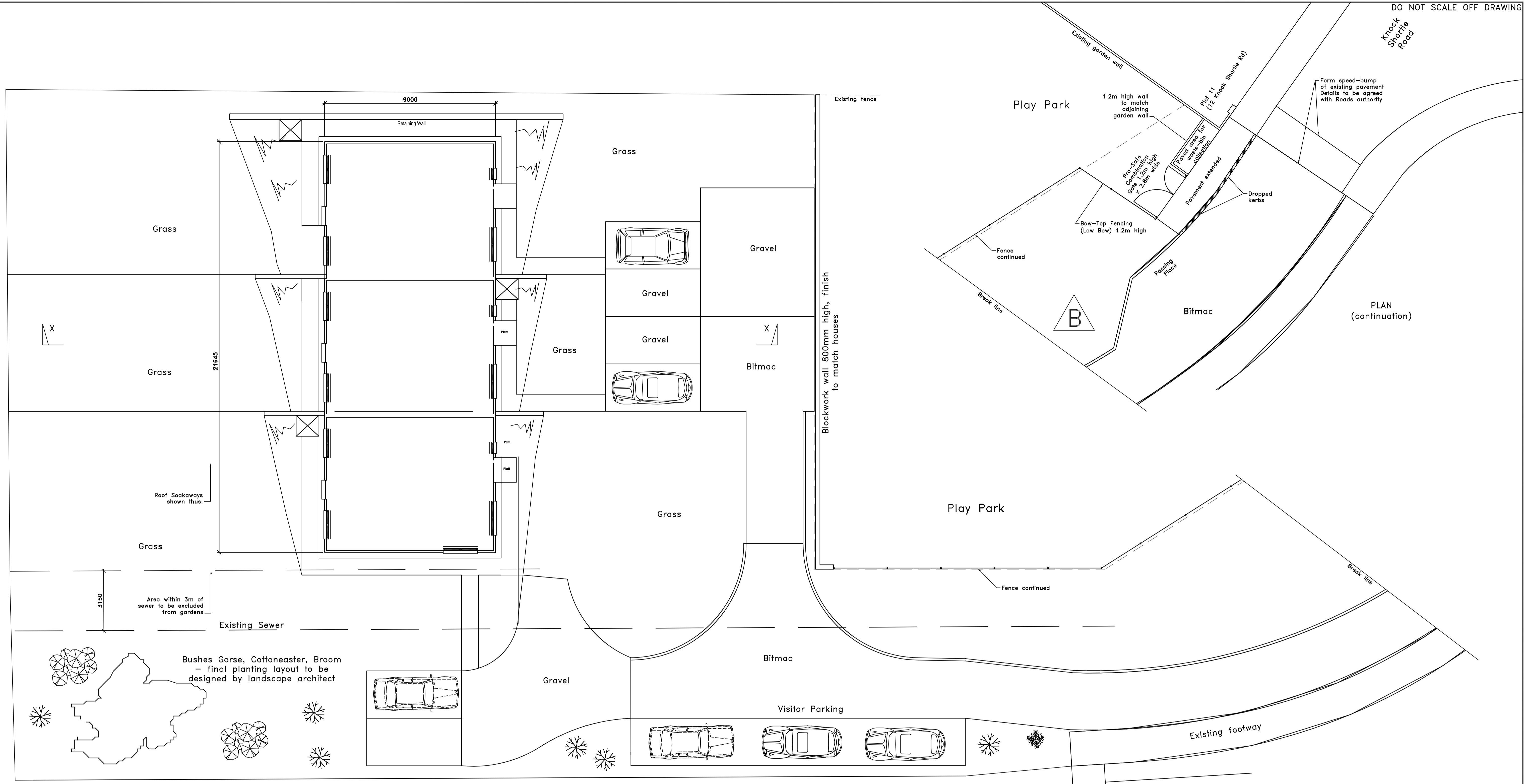


LINE SCALE - METRES

PLAN NOMINAL SCALE 1:2500



DO NOT SCALE OFF DRAWING
Knock Shortie Road



Typical bin storage area at houses

Bitmac access road to be maintained by house owners
SuDS - see HGA Consulting Engineers documents:
Percolation test report
Drawing 3650 100: Drainage Layout

PLAN (continuation)

PLAN

Rev	Date	Description
B	21/03/22	Add fence, gates and extend pavement to Play Park, wall to tin collection area
A	28/12/21	Public comments addressed

M T Austin
CONSULTING CIVIL AND STRUCTURAL ENGINEERS
ROGNVÅLSEY, DUNDAS CRESCENT Tel 01856 874150
KIRKWALL Fax 01856 873060
ORKNEY KW15 1JQ E-mail: mtaustin@orkney.com

Contract
Housing Development
Knock Shortie, Portmahomack

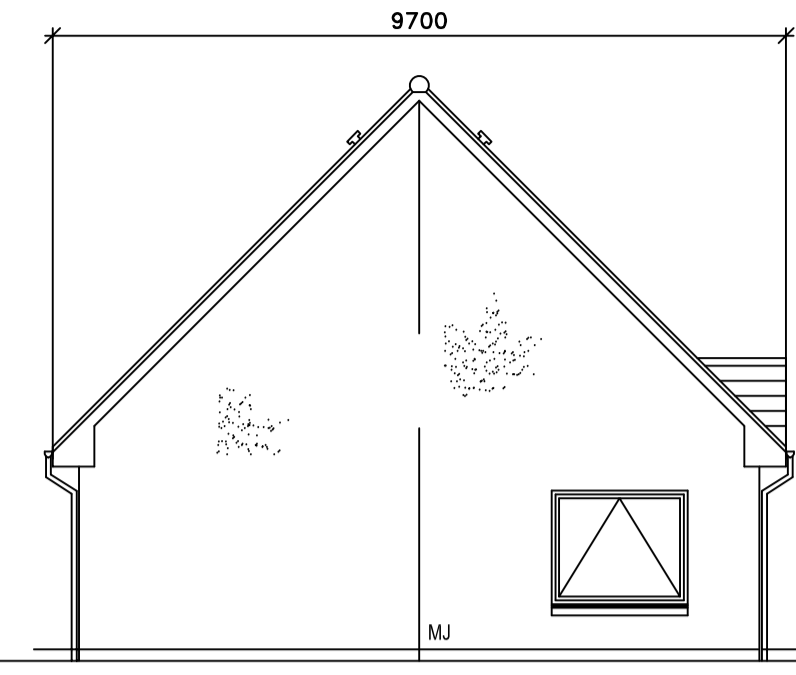
Client
M T Austin

Description
Plot 21
Site Plan

Scales	1:100	Drawn	MTA	Drawing No.	Rev
Date	20/10/21	Checked		1196/ 22	B

Purpose of Issue for approval, not for construction

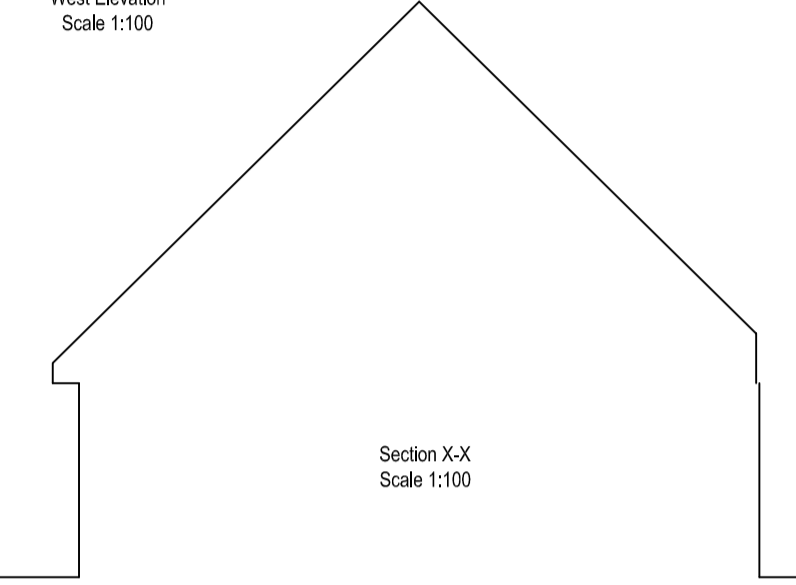
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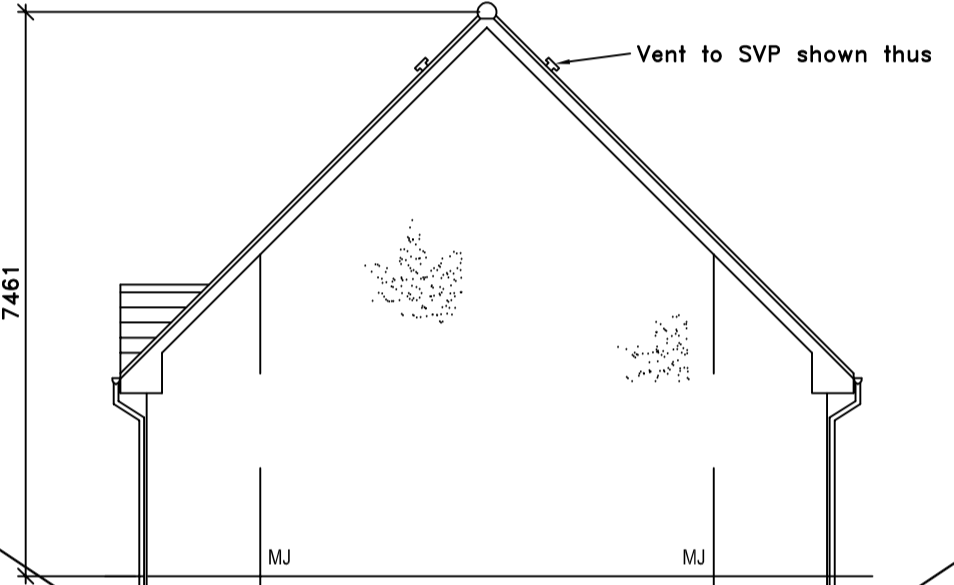
West Elevation
Scale 1:100



South Elevation



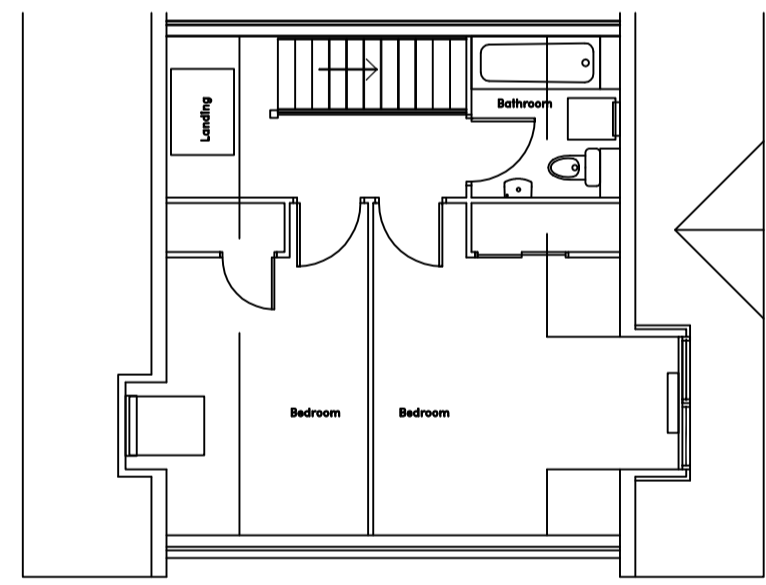
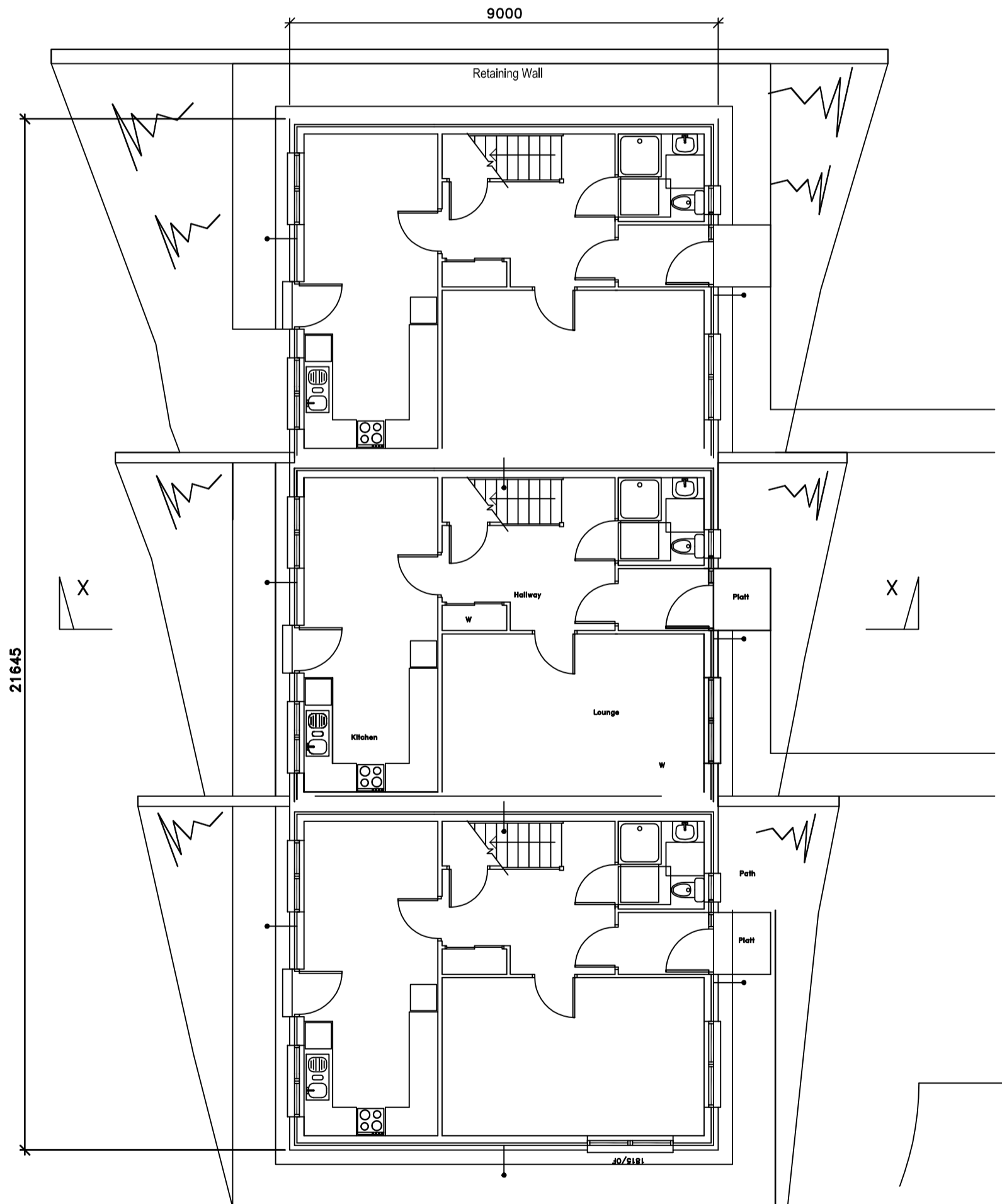
Section X-X
Scale 1:100



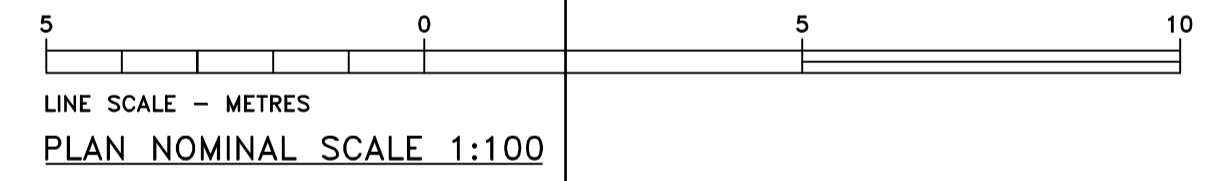
East Elevation
Scale 1:100



North Elevation



Typical First Floor Plan



Existing Sewer

- NOTES**
- EXTERNAL FINISHES**
- Walls
White dry dash on white coloured render
 - Roof
Grey concrete tiles
 - Windows and Doors
Wooden windows and doors with preservative stain finish
 - Porch
Cedar boarding

Rev	Date	Description
B	14/04/21	Landscape note and Section X-X added
A	23/07/20	Pre-Planning consultation

M T Austin
CONSULTING CIVIL AND STRUCTURAL ENGINEERS
ROGNValsey, Dundas Crescent
Kirkwall
ORKNEY KW15 1JQ

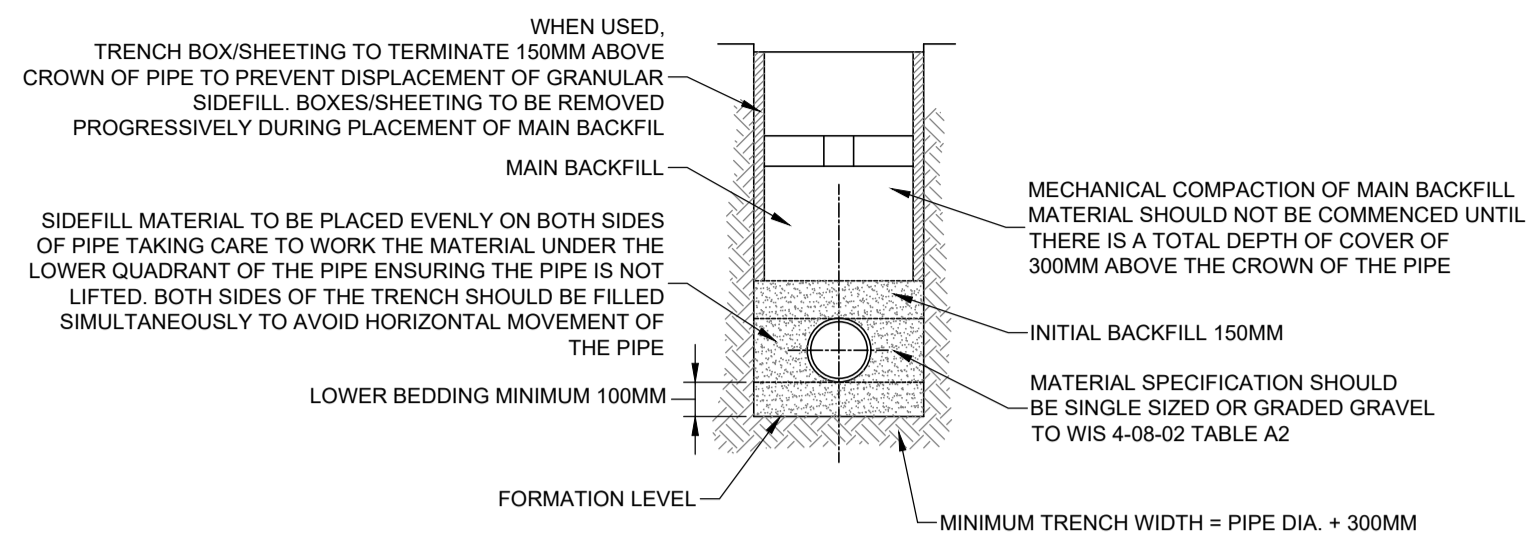
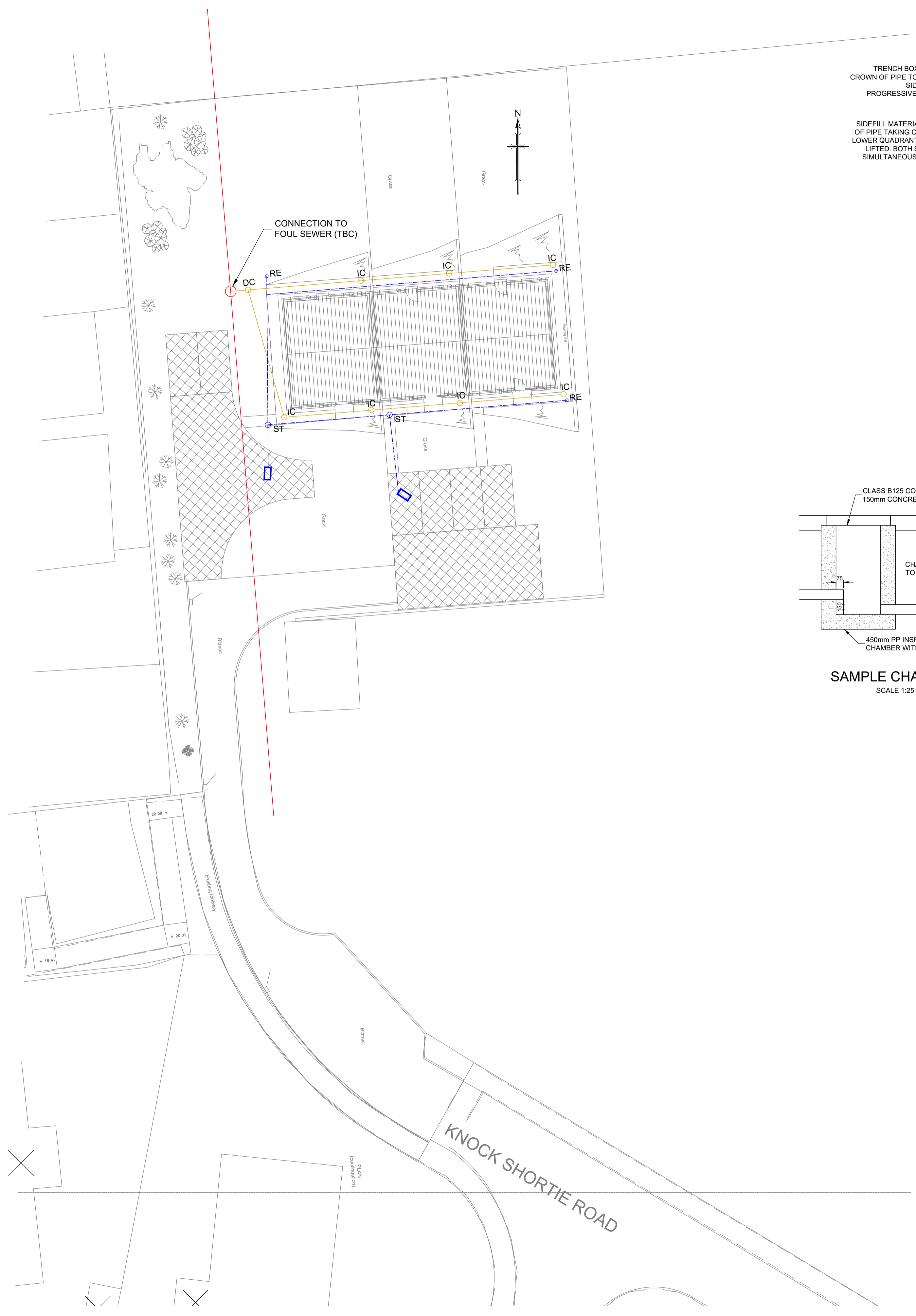
Tel 01856 874150
Fax 01856 873060
E-mail: mtaustin@orkney.com

Contract
Housing Development
Knock Shortie, Portmahomack

Client
M T Austin

Description
Plot 21 Housing
Plan and Elevations

Scales	1:100	Drawn	MTA	Drawing No.	Rev
Date	07/06/20	Checked		1196/ 21	B
Purpose of Issue for approval, not for construction					
Filename F:\1100-1196\1196\plots\Plot 21 Housing Plan and Elevations					

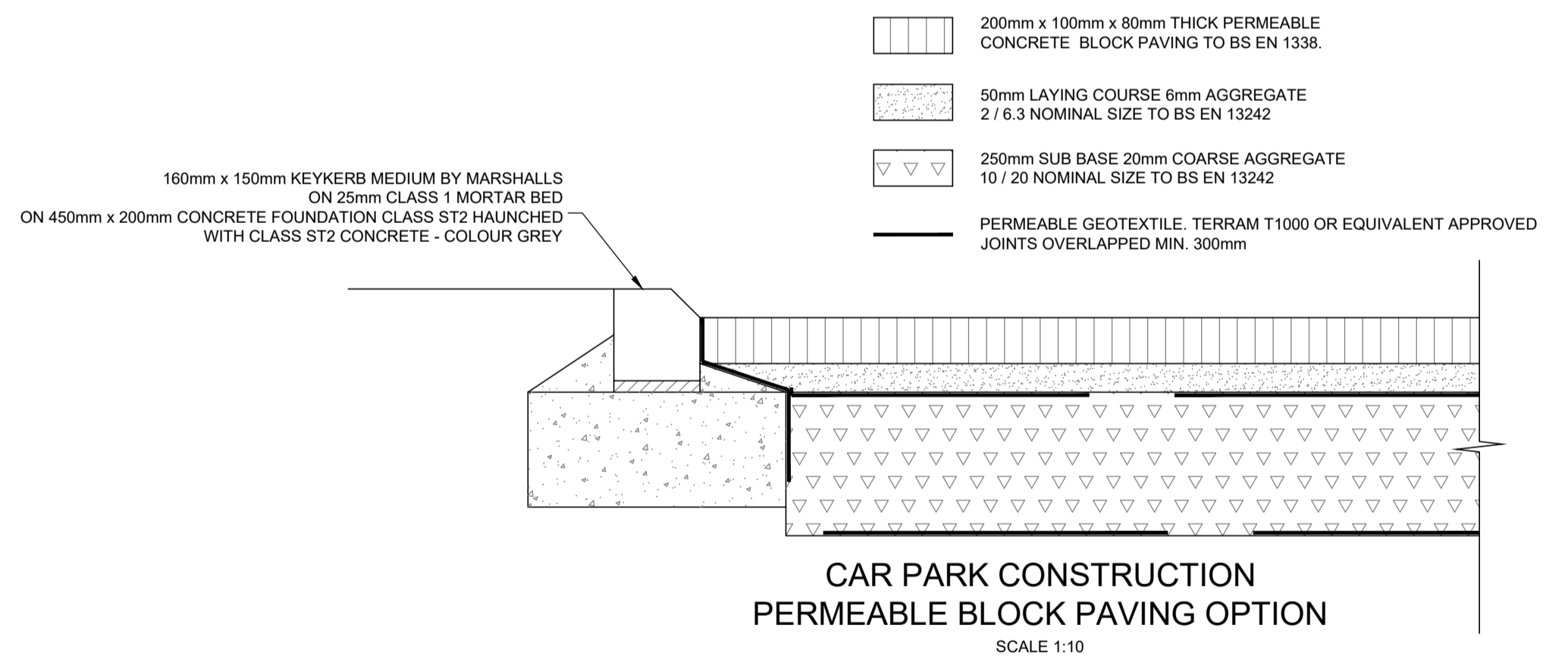
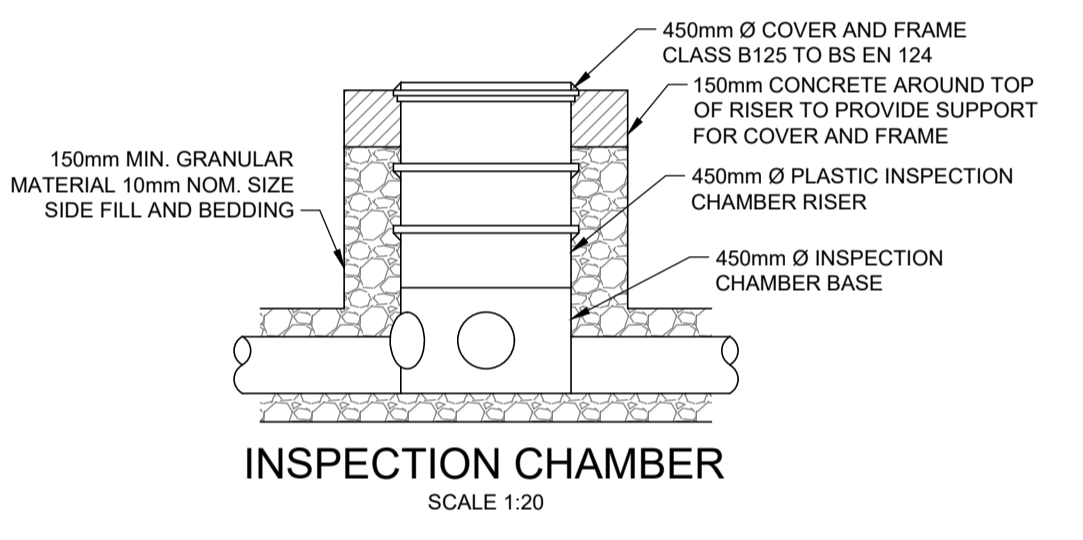
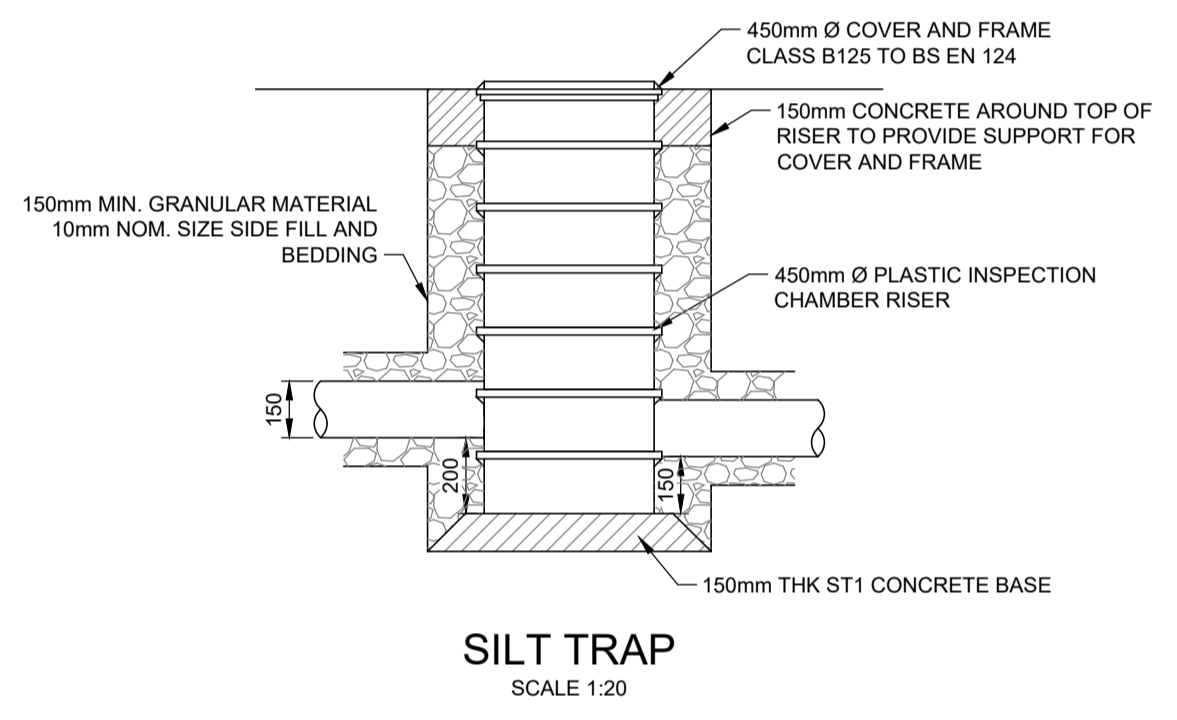
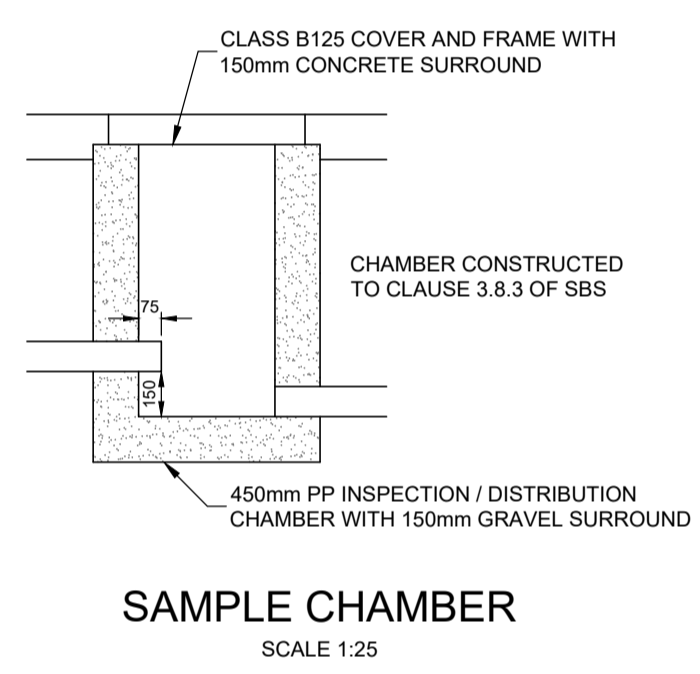
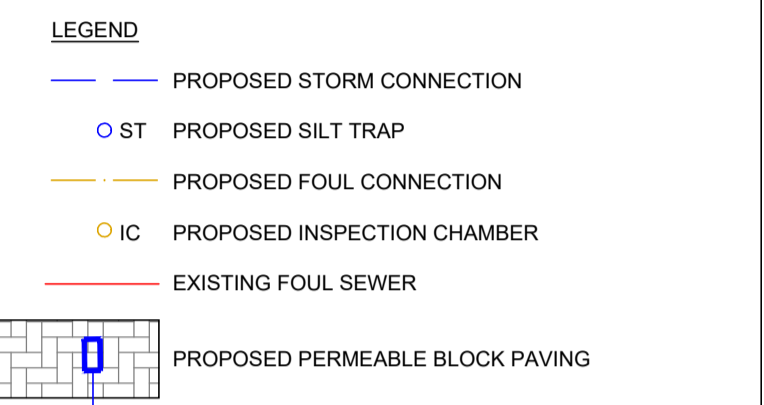


EXTRACT FROM TABLE A2 WIS 4-08-02
PROCESSED GRANULAR BEDDING AND SIDEFILL MATERIALS FOR FLEXIBLE PIPES

Pipe nominal bore (mm) see note (4)	Nominal maximum particle size (mm)	Materials specified in British Standards see note (2)
100	10	10mm nominal single-size
Over 100 to 500	15	10 or 14mm nominal single-size or 14mm to 5mm graded
Over 150 to 300	20	10, 14 or 20mm nominal single-size or 14mm to 5mm graded or 20mm to 5mm graded
Over 300 to 550	20	14 or 20mm nominal single-size or 14mm to 5mm graded or 20mm to 5mm graded
Over 550	40	14, 20 or 40mm nominal single-size or 14mm to 5mm graded or 20mm to 5mm graded or 40mm to 5mm graded

BEDDING AND SIDE FILL MATERIAL TO CLAUSE 503.3 (i)
MAIN BACKFILL MATERIAL CLASS 8 TO CLAUSE 503.3 (iv)
ST2 CONCRETE PROTECTION TO CLAUSE 503.3 (iii)

- NOTES**
- LEVELS ARE RELATIVE TO OS DATUM
 - ALL DRAINAGE TO BE CONSTRUCTED IN ACCORDANCE WITH BS EN 725-DRAIN AND SEWER SYSTEMS OUTSIDE BUILDINGS
 - TREATMENT SYSTEM TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS
 - TREATMENT SYSTEM TO BE LOCATED 5m MIN. FROM ALL STRUCTURES AND SITE BOUNDARIES
 - TREATMENT SYSTEM AND SOAKAWAY TO BE LOCATED 10m MIN. FROM ALL WATER COURSES AND 50m FROM WELLS AND BOREHOLES
 - DISCHARGE TO GROUND WATER IN ACCORDANCE WITH SEPA REGULATORY METHOD WAT-RM-04
 - DISCHARGE TO WATER COURSE IN ACCORDANCE WITH SEPA REGULATORY METHOD WAT-RM-03
 - ALL EXISTING DRAINAGE LINES AND LEVELS TO BE CONFIRMED ON SITE AND ANY DISCREPANCY REPORTED TO HGA.
 - ALL PIPEWORK 150mm Ø TO 450mm Ø TO BE STRUCTURED WALL uPVC TO WIS 4-35-01 UNLESS NOTED OTHERWISE
 - ALL PIPEWORK 525mm Ø AND ABOVE TO BE CONCRETE TO BS EN 1916 & BS 5911 UNLESS NOTED OTHERWISE
 - BEDDING TO PIPEWORK TO BE IN ACCORDANCE WITH WIS 4-08-02
 - INSPECTION CHAMBERS TO BE 450mm DIA PP WITH PROPRIETARY COVER AND FRAME, WHERE DEPTH EXCEEDS 1.2m. DIAMETER OF OPENING TO BE REDUCED TO 350mm DIA WITH SCREW DOWN COVER.
 - ALL WORKS TO BE INSPECTED AND APPROVED.



Drawing No.	Revision	
3690:100		
Revisions	Date	Drn.

APPROVAL DRAWING

M.T. AUSTIN

HOUSING DEVELOPMENT PLOT 21
KNOCK SHORTIE, PORTMAHOMACK

DRAINAGE LAYOUT

Drawn: RR	Ck'd:	Scale: AS NOTED (A1)
Date: SEPT21	Date:	DO NOT SCALE

consulting engineers **hga**

HGA(UK) Ltd
Darach House
Stoneyfield Business Park
Inverness IV2 7PA
T: 01463 221717
F: 01463 224275
email: hga@hagagroup.co.uk

Drawing No.	Revision	
3690:100		