

Agenda Item	6.9
Report No	PLS-37-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 28 April 2022
Report Title: 20/01307/PIP: Mr Gareth Jones
Land 30M SE of Oakbank East, Milton, Drumnadrochit
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Erection of house
Ward: 12 – Aird and Loch Ness
Development category: Local
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.

Recommendation

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

1. PROPOSED DEVELOPMENT

- 1.1 The application is for planning permission in principle for the erection of a house and associated infrastructure.
- 1.2 There is an existing access track from the A831 trunk road to the north east that subdivides and continues through the site to the south. Drainage will be by septic tank and soakaway
- 1.3 Pre-Application Consultation: Pre-application advice is not mandatory but was sought and considered there was scope for development that respected the existing settlement pattern; appropriate “infill” development consolidating the existing group of three properties. Any new development must demonstrate sensitive siting in keeping with the local character and the natural environment as outlined in policy guidance. Whilst there is scope for development at the location the applicant would need to carefully consider details regarding the layout, design and the materials proposed.
- 1.4 Supporting Information: Design Statement, Private Access Checklist.
- 1.5 Variations: Amended Location Plan and indicative layout provided marginally extending the site.

2. SITE DESCRIPTION

- 2.1 The site is located on the south side of the A831 and around 1.7km to the west of the central part of Drumnadrochit village. To the south of the site is the River Enrick. The site has a disused shed located on an area of flat grass with an existing steading located adjacent to the access track from the public road. The constrained site is located between the houses, Oakbank and Rivermill House, with Uibhist located and Mill Laide House located approximately 55m and approximately 120m to the east respectively. All are much larger properties set within significant curtilage space.

3. PLANNING HISTORY

- | | | | |
|-----|------------|---|-----------------------------|
| 3.1 | N/A | 22/00403/PIP - Erection of a single storey “annexe” | Pending consideration |
| 3.2 | 18.03.2020 | 20/00617/PIP - Erection of house | Application withdrawn |
| 3.3 | 12.04.2019 | 19/00003/PIP - Erection of a single storey “annexe” | Planning Permission Granted |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour
Date Advertised: 17.04.2020

Representation deadline: 18.04.2020

Timeous representations: 3 representations (from 3 households)

Late representations: 3 representations (from 2 households)

4.2 Material considerations raised are summarised as follows:

- a) compliance with the development plan and other planning policy;
- b) siting and design;
- c) residential amenity;
- d) access and servicing.

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 **Flood Risk Management Team** – No objection. Although SEPA's Flood Map indicates the southern part of the application site lies adjacent to the 1 in 200 year predicted flood extents of the River Enrick, satisfied that the proposed house location will be sufficiently elevated above the river for the flood risk to the house to be considered low.

5.2 **Scottish Environment Protection Agency** – No objection. The Flood Risk Plan 00-001 REV C states a 200 year flood level of 93.6m (local datum) and indicates that the finished floor level of the house will be set 1m higher at 94.6m (Above Ordnance Datum). SEPA generally recommend a minimum freeboard of 600m and welcome the more conservative approach as freeboard of 1m is likely to provide reasonable resilience with regards to climate change to ensure the longevity and sustainability of the development

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

6.2 **Inner Moray Firth Local Development Plan (June 2015)**

N/A

6.3 **Highland Council Supplementary Planning Policy Guidance**

- Rural Housing (December 2021)
- Sustainable Design Guide (January 2013)

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

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Inner Moray Firth 2 Proposed Local Development Plan

No specific policies apply.

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June 2014)

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) siting layout and design;
- c) access, parking and turning provision;
- d) drainage arrangements;
- e) flood risk;
- f) any other material considerations.

Development Plan/Other Planning Policy

8.4 The application site lies just to the west, and outside, of the Settlement Development Area of Drumnadrochit within the Hinterland area of Inverness where Policy 35 of the Highland wide Local Development Plan (HwLDP), in respect of housing in the countryside, applies.

8.5 Policy 35 presumes against development within areas of open countryside within the Hinterland unless one of a number of exceptions can be met, and where the house complies with all other relevant policies of the development plan. Exceptions to this policy will only be made where at least one of the following applies:

- A house is essential for land management or family purposes related to the management of the land;
- The dwelling is for a retiring farmer and their spouses; or for a person retiring from other rural businesses on land managed by them for at least the previous ten years, where their previous accommodation is required for the new main

operator of the farm, or rural business; Affordable housing is required to meet a demonstrable local affordable housing need;

- Housing is essential in association with an existing or new rural business;
- The house proposed is a replacement of an existing dwelling which does not meet the requirements for modern living and where the costs of upgrading are not justified on economic or environmental grounds (subject to the existing dwellings being demolished);
- The proposal involves conversion or reuse of traditional buildings or the redevelopment of derelict land; development of brownfield sites will be supported where a return to natural slate is not readily achievable and where a wider environmental benefit can be achieved through development;
- The proposal meets the Council's criteria for acceptable expansion of a housing group or development within garden ground (as detailed in the relevant supplementary guidance);
- The potential for new housing related to crofting is restricted; wider public benefit must be clearly demonstrated and meet the criteria set out in New/Extended Crofting Township Policy 48. Single house proposals on crofts must comply with the criteria in the Housing in the Countryside and Siting and Design Supplementary Guidance and/or Policy 47: Safeguarding Inbye/Appportioned Croftland.

8.6 The only applicable exception would relate to the infilling or rounding-off of an existing housing group. This supports proposals for new houses within a housing group where, amongst other factors, it constitutes small scale infill or round off, respects the character, cohesiveness, spacing and amenity of the existing group, does not create an inappropriate intrusion into a previously undeveloped field or open land or overwhelm their landscape setting, and complies with the "general development considerations".

8.7 In addition, Policies 28 and 29 are relevant to this case; in particular the criteria within Policy 28. This requires proposals to be assessed on the extent to which they impact on individual and community residential amenity, are compatible with public service provision and are accessible by public transport, cycling and walking as well as car. Policy 28 also supports development proposals which promote and enhance social, economic and environmental wellbeing. Proposals will also be judged in terms of how compatible they are with the existing pattern of development and landscape character, how they conform to existing and approved adjacent land uses and the effect on any natural, built and cultural heritage feature. Policy 29 requires new development to be designed so as to make a positive contribution to the architectural and visual quality of the area. As the site lies close to the River Enrick, Policy 64 is relevant. This requires development to avoid areas susceptible to flooding and promote sustainable flood management.

8.8 Where exceptions are justified, proposals should accord with these Development Plan policies as well as the relevant supplementary guidance; the new Rural Housing Supplementary Guidance. Where this is the case, and where there will be no significant impact on the environment, existing infrastructure and individual and/or community residential amenity the proposals would accord with the Development Plan.

Siting, Layout and Design

- 8.9 The proposal is in principle only, although indicative plans have been provided showing a 1 and ½ storey, 2 bedroom property with space for 2 cars within the site. Whilst the approximate curtilage of 215sqm is considered capable of accommodating the proposed house which has been shown, with an indicative footprint of 65sqm, the site is extremely constrained for the development of a house even of that size, and the provision of the required minimum of two parking spaces, leaving little space for any realistic associated amenity or garden space. There is additional curtilage space to the south of Rivermill, to accommodate the septic tank and soakaway, however, this is across the existing track and does not appear as associated garden ground. The applicant submitted an amended plan showing an extended red line boundary following the concerns raised regarding the constrained nature of the site. Two parking spaces have been relocated across the existing track directly opposite the indicative building footprint which would create a small increase to the proposed site boundary. Additionally, the applicant has proposed a 340sqm area of land adjacent to the River Enrick as garden ground approximately 120m south of the indicative building footprint. This patch of land has little, if any, relation to the proposed house and does not appear as associated garden space.
- 8.10 While the applicant notes that there will be a total area of 625sqm associated with the proposed house, this is disjointed, in multiple locations, subdivided either side of the existing track with little relationship to the house site to be considered associated garden space. This appears incongruous when compared to the existing housing cluster as Oakbank, Rivermill and Uibhist, which all have clearly defined curtilage that is immediately recognisable as garden/amenity space associated with the houses. It is considered that a fragmented site proposed is not compatible with surrounding development, the established settlement pattern and the rural location, where larger plots and greater levels of privacy are to be expected. Additionally, there is a significant risk of overdevelopment given the confines of the site.
- 8.11 While appropriate infill sites are generally supported this has to be balanced with how compatible they are with the existing pattern of development and character of the housing group. It is also stated that development should make a positive contribution to the architectural and visual quality of the area with consideration given to residential amenity. It is not considered that development of this site either reinforces or enhances the pattern and character of the area which is defined by large houses set within substantial, obviously demarcated curtilage space. Oakbank, Rivermill, Uibhist and to a lesser extent Mill Laide House approximately 120m to the east all dwarf the proposed site in terms of evidently associated curtilages that are neither subdivided nor separated like proposed location. This site is not an appropriate “fit” within the existing housing group. As such, the proposal would appear as a stand-alone development which is not cohesive with the surrounding arrangement of existing housing and will appear incongruous.
- 8.12 The Design Statement makes reference to similar small curtilages in the wider surrounding area, in particular identifying a number of properties in Milton and Drumnadrochit. These examples are however located in more densely populated areas and terraced streets, with all the gardens appearing more obviously linked to the associated house than this proposal. This site has a very different character,

namely, a rural cluster of housing in comparison to a more defined grouping or settlement and cannot be directly compared.

8.13 Whilst the previous Housing in the Countryside Supplementary Guidance (March 2013) has been superseded by the Rural Housing Supplementary Guidance (2021) during the consideration of this application the main thrust of the policy has continued through into the current guidance. The current Rural Housing Supplementary Guidance notes that new houses in the Highland countryside are expected to meet the following criteria:

- Proposals should enhance the setting of any settlement;
- The local character, scenic quality, and wider landscape characteristics of the area are respected;
- Be compatible with the existing pattern of development, adjacent land uses (including working farms, forestry, or other rural industries) and does not undermine the coordinated approach to the strategic future expansion of any settlement;
- Sensitively addresses site constraints including topography; natural, built and cultural heritage features; flood risk;
- Do not impact detrimentally on existing trees and/or woodland which are important to the character, setting, amenity and/or containment of the housing group or surrounding landscape;
- Be compatible with existing servicing and utilities capacities, including demands on private water supplies and the environmental impacts of private drainage systems. Isolated development in very remote/inaccessible areas will be resisted to avoid placing unacceptable pressure on limited infrastructure and services, including school bus provision and refuse collection;
- Protects public views over open water;
- Demonstrates sustainable and/or ultra-low energy & impact design principles, in compliance with Section 6 - 'Siting and Design'; and
- Provides a safe and secure access to the public road network in accordance with the Council's Access to Single Houses and Small Housing Developments Supplementary Guidance (7); any required road and junction improvements must be achievable by the applicant.

8.14 While the existing cluster of housing generally meets the definition of a “housing group” in Section 3 of the Rural Housing Supplementary Guidance, the additional housing plot here is not considered to enhance the setting of the settlement, does not respect the local character and is not compatible with the existing pattern of development for the reasons noted above.

Access, Parking and Turning Provision

8.15 The existing communal vehicular access to the site from the A831 trunk road also serves Uibhist, Rivermill House and Oakbank. It is considered the addition of traffic from the proposed development would not require any improvements to this existing access point which is surfaced in bitmac and has good visibility splays. While there is space within the site to provide parking and turning provision in accordance with

the Council's standards, it further reduces the useable curtilage space associated with the property, emphasising the overdevelopment of the restricted site.

Drainage Arrangements

- 8.16 The indicative location of the foul water treatment plant and soakaway is shown on the submitted drawing and SEPA is satisfied with the proposed location as it lies outwith the 1 in 200 year flood risk area for the River Enrick. It is therefore considered that the proposal accords with Policy 65 Waste Water Treatment, and Policy 66 Surface Water Drainage.

Flood Risk

- 8.17 The Flood Risk Management Team has requested that any permission granted should be conditioned to require that the details of the final drainage layout is provided for their review.

Other material considerations

- 8.18 There are no other material considerations.

Non-material considerations

- 8.19 The issue of land ownership is a civil matter and not a material planning consideration.

Developer Contributions

- 8.20 Policy 31 requires all developments to make fair and reasonable contributions towards improved public services as required. The following is what would be required in the event that planning permission were to be granted. Should the proposal be afforded support, developer contributions will be due. The site lies within the school catchment for Glen Urquhart High and Glen Urquhart Primary School. Whilst there is capacity at Glen Urquhart High, contributions of £481 would be due towards an extension to Glen Urquhart Primary School.

Matters to be secured by Section 75 Agreement

- 8.21 None.

9. CONCLUSION

- 9.1 New housing in the Hinterland area around Inverness is only supported where it meets one of the exceptions set out within Policy 35 - Housing in the Countryside (Hinterland areas) of the Highland-wide Local Development Plan and the criteria outlined within the Rural Housing Supplementary Guidance. The only applicable exception in this case would relate to the development being considered as a small scale round-off or infill of an existing housing group. Given the small, constrained and restricted nature of the application site, it is not accepted that the application presents an infill and rounding-off opportunity within an existing housing group.

9.2 Furthermore, with regard to Policy 28 Sustainable Design and Policy 29 Design Quality & Place-making of the Highland Wide Local Development Plan, the proposal would overdevelop the restricted site. It is not considered that development of this site either reinforces or enhances the pattern and character of the area. While appropriate infill sites are generally supported this has to be balanced with how compatible they are with the existing pattern of development and character of the housing group. Oakbank, Rivermill, Uibhist and Mill Laide House further to the east are larger houses set within significant curtilage space. As such, the proposal does not appear an appropriate “fit” within the group and more like a stand-alone, incongruous development which is not cohesive with the surrounding arrangement of existing rural housing group.

9.3 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.

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

The application is recommended for refusal for the reasons set out below.

Reasons for Refusal

1. The proposal is contrary to Policy 28 and 29 of the Highland-wide Local Development Plan and the Rural Housing Supplementary Guidance in that the development appears incongruous given the small, constrained and restricted size of the site, and would have a detrimental impact on the character, cohesiveness, spacing and established settlement pattern and amenity of the local area.
2. The proposal is contrary to Policy 35 of the Highland-wide Local Development Plan and the Rural Housing Supplementary Guidance in that the applicant has not demonstrated that the proposal meets one or more of the policy exceptions contained in these documents.

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Roddy Dowell
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan 00-00LS REV H
Plan 2 - Site Layout Plan 00-00S REV C
Plan 3 - Flood Risk Plan 00-001 REV C

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	Glenurquhart Primary School	£481	£0	£481	BCIS	Q2 2018	Upfront	Apr/Oct	N/A
Primary – Land Costs		£0	£0	£0	BCIS				
Secondary – Build Costs	Glenurquhart High	£0	£0	£0	BCIS				
Secondary – Land Costs		£0	£0	£0	No				

*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 & 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)

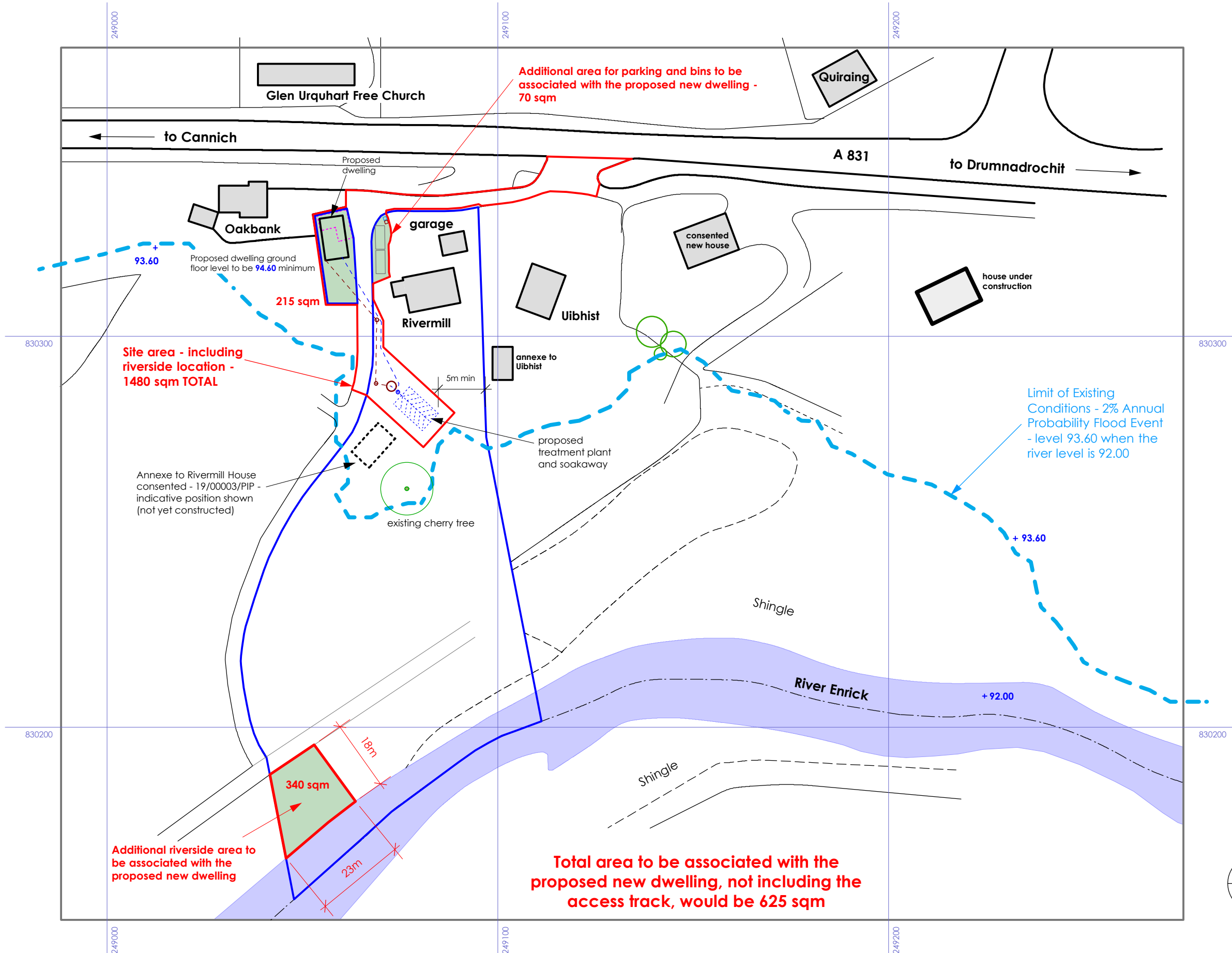
*5 Clawback – 15 years for Major development; 20 years for Local development

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

Drainage Impact Assessment

The proposed new sewage treatment unit - a 'Graf One2Clean' 4-5 person - is one of the most efficient units on the market and is generally accepted for use where the discharge needs to be taken to a nearby watercourse. However in this instance the discharge from the treatment plant, along with the surface water from roofs etc, will be taken to a combined soakaway. A percolation test will be carried out in due course and uploaded to the application.



- H** 16.01.22 additional notes added.
- G** 13.01.22 Parking, bins and riverside options added.
- F** 19.03.20 Planning in Principle application 2
- E** 18.03.20 Site area amended; treatment plant and soakaway relocated.
- D** 16.03.20 Site area amended; treatment plant and soakaway relocated.
- C** 16.03.20 Site area amended; treatment plant size amended.
- B** 14.03.20 Key added along with delineation of all land owned by the applicant outlined in blue; indicative layout of development site amended.
- A** 07.02.20 - Planning in Principle Application



Gareth and Kay Jones				
CLIENT:				
Proposed New Dwelling House at Rivermill IV63 6XS				
PROJECT:				
Job no	dwg no	rev	scale	date
1175	00-00LS	H	1:1000@A3	25.02.20

Location Plan (indicative layout only)

DRAWING TITLE:

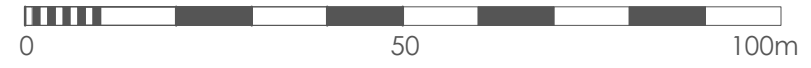
CONTACT: **tel: 01456 476 703**
mail@mjdesignworks.com

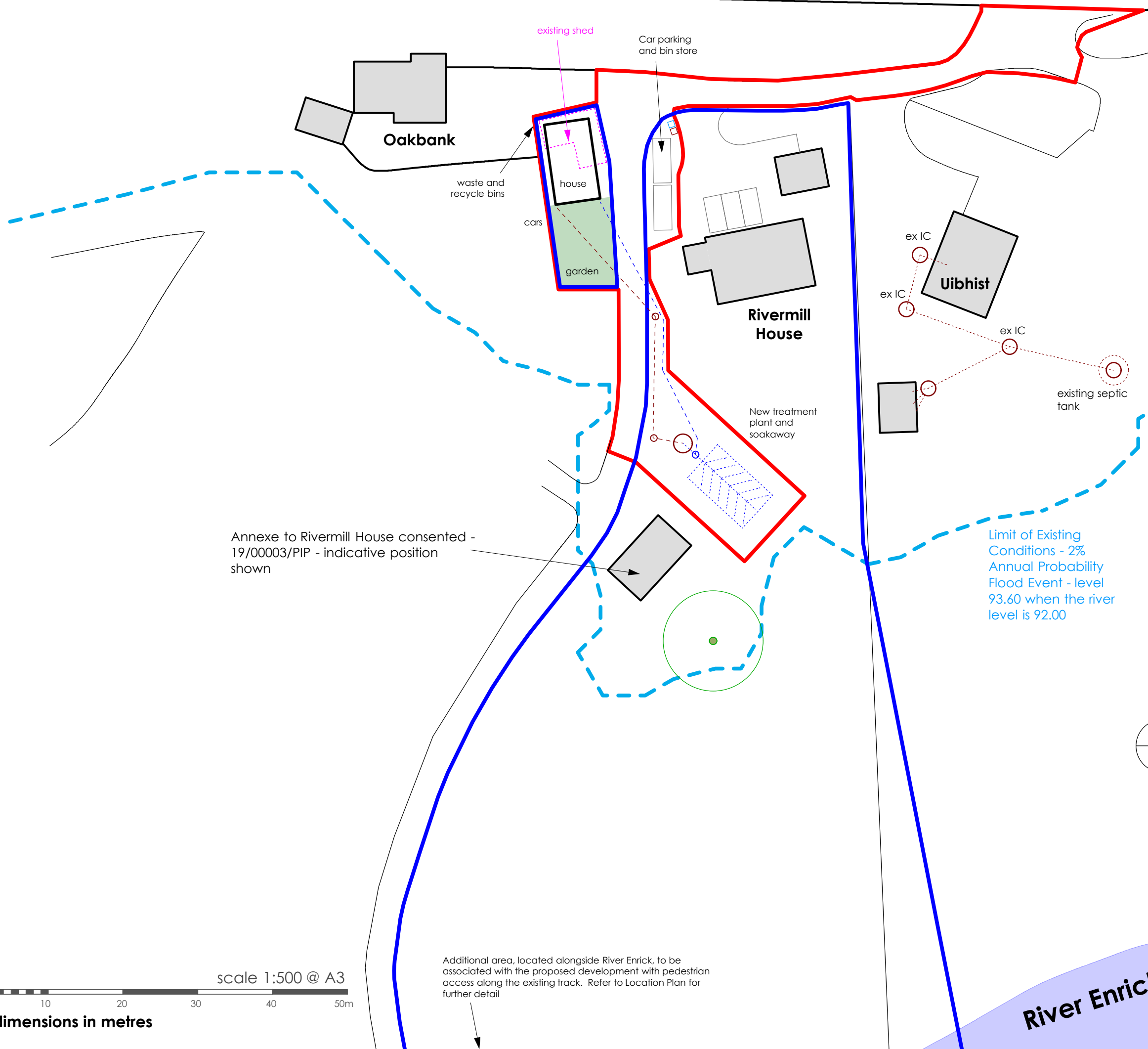
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Key

- Site Area: area required to carry out the proposed development (not necessarily all owned by the applicant)
- Boundary of all nearby land in the ownership of the applicant

scale 1:1000 @ A3



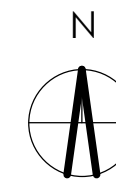


Annexe to Rivermill House consented - 19/00003/PIP - indicative position shown

Limit of Existing Conditions - 2% Annual Probability Flood Event - level 93.60 when the river level is 92.00

Additional area, located alongside River Enrick, to be associated with the proposed development with pedestrian access along the existing track. Refer to Location Plan for further detail

- D 16.01.22 - additional notes added
- C 13.01.22 - parking and bin area amended
- B 25.02.20 - Client Issue2
- A 25.02.20 - Client Issue



all dimensions in metres

scale 1:500 @ A3

Gareth and Kay Jones

CLIENT:

Proposed New Dwelling House at Rivermill IV63 6XS

PROJECT:

job no	dwg no	rev	scale	date
1175	00-00S	C	1:500@A3	25.02.20

Site Plan (indicative layout only)

DRAWING TITLE:

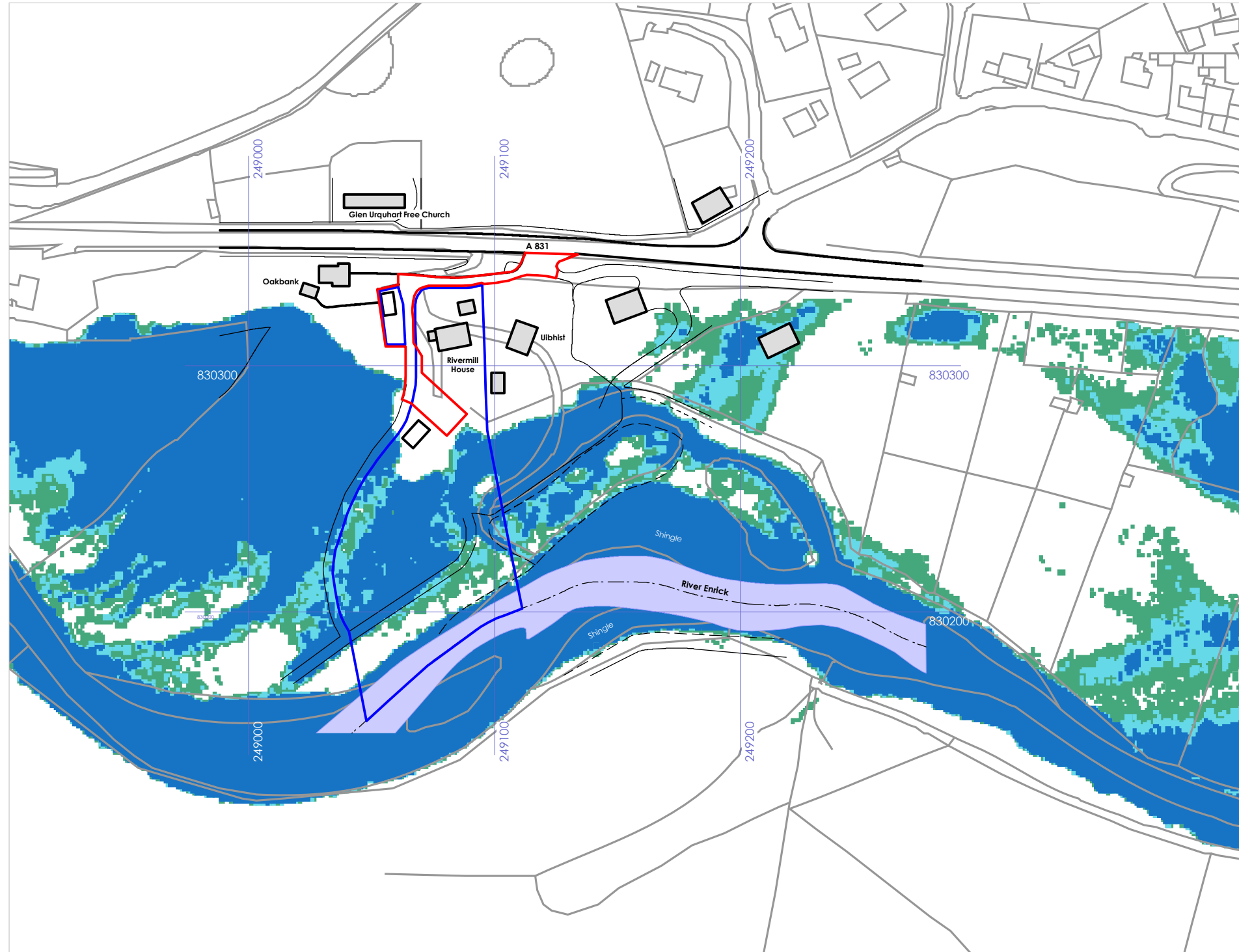
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River Enrick

Flood Risk

The Annual Probability Flood Event is at a minimum level of 93.60 which is 1.6m above the river level of 92.00m (taken on 16 December 2018). These levels are relative and not to any benchmark. The floor level of the house would therefore be set at a minimum of 94.60m, 1m above the above Annual Probability Flood Event level.



Key

- Existing Conditions 2% Annual Probability Flood Event
- Existing Conditions 0.5% Annual Probability Flood Event
- Existing Conditions 0.1% Annual Probability Flood Event
- Land in the ownership and under the control of the applicant
- site boundary

- C** 19.03.20 - Planning in Principle application 2
- B** 18.03.20 - Site area amended
- A** 07.02.20 - Planning in Principle application

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Gareth and Kay Jones

CLIENT:

Proposed New Dwelling House at Rivermill IV63 6XS

PROJECT:

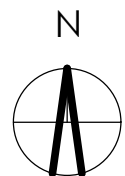
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Flood Risk Plan

DRAWING TITLE:

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Location plan overlaid on Jacob Babbie's Flood Risk Assessment and Survey Report of the River Enrick - 2006

(Flood Risk Assessment carried out on behalf of the Highland Council and Glen Urquhart Land Use Partnership (GULUP) in association with SAFER (Strategies and Actions for Flood Emergency Risk Management))

Flood Risk Plan

scale 1:2000 @ A3
0 50 100m