



# HHL Scotland

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## LOCAL REVIEW BODY STATEMENT OF CASE TO SUPPORT

### PLANNING APPLICATION TO ERECT EXTENSION AT 10 CHURCH PLACE, FINDHORN

APPELLANT.

MR & MRS SHAND

COUNCIL  
PLANNING REF.

16/00492/APP

DATE.

18 AUGUST 2016

HHL SCOTLAND  
REF.

16023



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## 1.0 INTRODUCTION

- 1.1 This Local Review Statement of Case has been prepared by HHL Scotland Chartered Town Planning & Building Consultants to support a recently refused detailed Planning Application, proposing a lounge extension to the front of the appellant's property.
- 1.2 The planning application was registered on 30<sup>th</sup> March 2016 and was refused on 25<sup>th</sup> May 2016 under delegated powers (Decision Notice – Appendix 1). This Review has been prepared and lodged within the statutory 3months period from the date of the decision notice.
- 1.3 The application was refused for the reason below and after due consideration, the appellant has decided to seek a Review of the decision by the Council Review Body and the following Statement of Case and attached appendix constitutes the appellant's submission.

*"The proposal is contrary to Policy H4 & IMP1 of the adopted Moray Local Development Plan 2015 where, by reason of the location and design (including size and depth of projection), the extension would be an intrusive form of development which would have an adverse effect upon and detract from the character, amenity and appearance of the existing property and the surrounding area."*



## **2.0 THE APPLICATION SITE & PROPOSAL**

- 2.1 The existing residential property is the end terrace of a run of 4no. houses sited within a small cul-de-sac of 10no. Houses at Church Place, Findhorn. This arrangement is repeated a number of times around this locale.
- 2.2 All the properties in this area are single storey houses, with the houses having a small projecting porch over the front door, which overlooks a small front garden area. These front gardens have been put to a variety of uses/finishes; including car parking, ornate gardens and grassed areas. The appellant is seeking to replace part of their grassed garden area with a the relatively small extension to the living room.
- 2.3 The proposal will include a pitched tile roof to complement the existing roof of the house and the walls will be finished in a matching render and, as such, the finishes are considered to be acceptable in terms of Moray Development Plan Policy H4.
- 2.4 The project has been designed to ensure that no windows will look onto the adjoining property (9 Church Place), thereby ensuring no privacy and/or amenity issues are created as a result of the development. Instead all glazing will look out to the front or into the site. Therefore, the proposal is considered compliant with Moray Development Plan Policy H4 in this regard.



## 3.0 PLANNING REVIEW CONSIDERATION

- 3.1 The Report of Handling (Document 02) indicates that the Appointed Officers primary concern relates to the fact that no other property in this location has built a front extension. The appellant however, understand that this should not be the primary reason for refusing a domestic planning application, as the Scottish Government has clearly outlined that householders should have more flexibility in adapting their homes for their own use.
- 3.2 This is borne out in the Government fairly recent relaxation of the householder permitted development rights, which have allowed householders to extend their properties without the need for planning regulation, except for a few exceptions, one of which is erecting a front extension hence this application.
- 3.3 In this instance the appellant's domestic property has a relatively small living accommodation, which is sited to the front of the property. This therefore excludes the ability to extend the living space within the rear garden area and, as such, the appellant only has the ability to extend into their front garden.
- 3.4 Prior to submitting the planning application, the appellant carefully considered his options and decided on a relatively small front extension, similar to others he has seen around towns in Moray was his best option.
- 3.5 Consequently, he submitted the application subject to this Review and was therefore disappointed at the reaction by the Appointed Officer. In light of this reaction, the appellant and his agent meet with her and discussed various options to amend the design. During this meeting the Appointed Officer initially expressed her support for amending the proposal, but shortly thereafter change her view and refused the project under delegated powers. Thereby requiring the appellant to seek this Review.
- 3.6 As noted above, the appellant only progressed with a front extension after viewing numerous others around Moray, including the following:



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- Manse Rad, Hopeman



- Covesea Road, Lossiemouth







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- Main Street, Archiestown



- Moray Avenue, Alves





- 3.7 All these extensions are built hard on the boundary with the adjoining properties, all project a similar distance and all are the only front projecting extension in that particular locale. Therefore, the appellant asserts that his development would be no more intrusive and/or dominant in its urban setting than the ones noted above and for this reason he fails to understand why in this instance his proposal is considered unacceptable.
- 3.8 Furthermore, the agent took his Inspiration for the design from similar extensions in form within Findhorn Conservation Area, numerous of which overlooking the bay and are clearly visible from the main thoroughfares around Findhorn and all of which provide no greater impact than the appellants proposal.
- 3.9 The appellant also wishes to note that the setting is in a relatively quiet area, where no passing traffic would view the extension and the only vehicles which will travel past the project, will be locals, which in turn further reduces the 'intrusive form' of the development.
- 3.10 Given the above the appellant believes, contrary to the Appointed Officer, that his project will not unduly harm the character of the area and or create an intrusive development.
- 3.11 Additionally, in terms of the amenity impact on the neighbouring property, the current boundary treatment between the appellant property and neighbouring property is a substantial hedge which extends too over 6foot in height (see adjacent photograph).







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- 3.12 Given the height and depth of this existing hedge, its replacement with a single storey low pitched extension should result in no greater loss of sunlight and/or daylight to the neighbouring property. Which ensures that the development, will not have a detrimental impact on the neighbouring property and is therefore compliant with the Moray Local Development Plan policies.



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## 4.0 CONCLUSION

- 4.1 In concluding, based on all of the above and the enclosed documents, the appellant believes that their proposal represents an acceptable form of development and, as such, respectfully asks the Review Body to uphold this Review.



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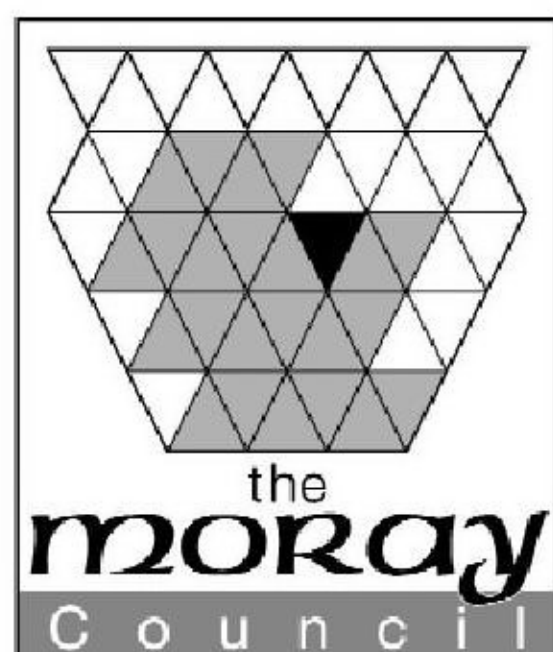
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## APPENDIX 1

## COUNCIL DECISION NOTICE

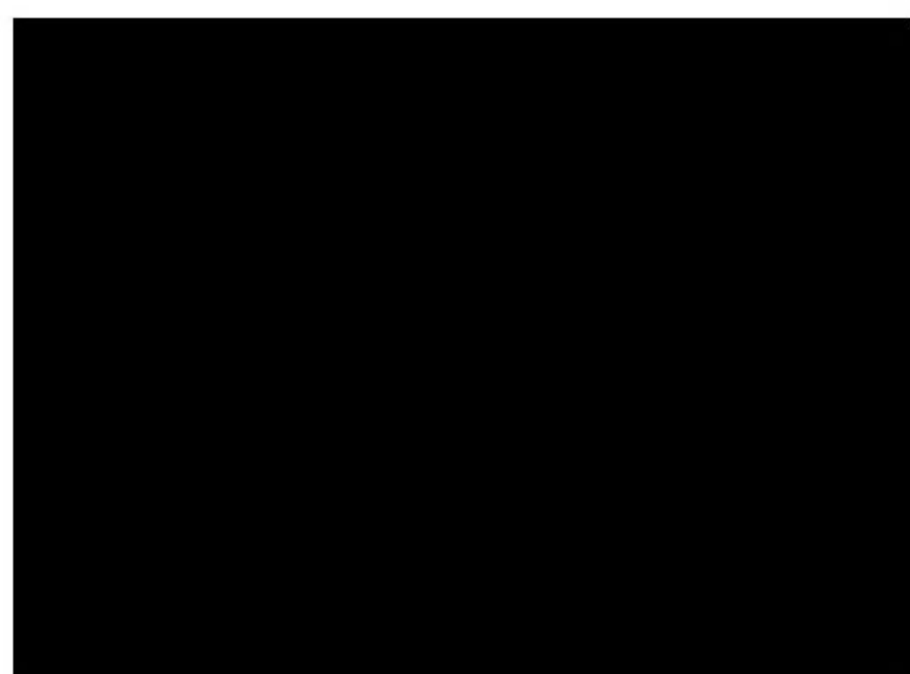


**THE MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,  
as amended**

**REFUSAL OF PLANNING PERMISSION**

**[Forres]  
Application for Planning Permission**

TO

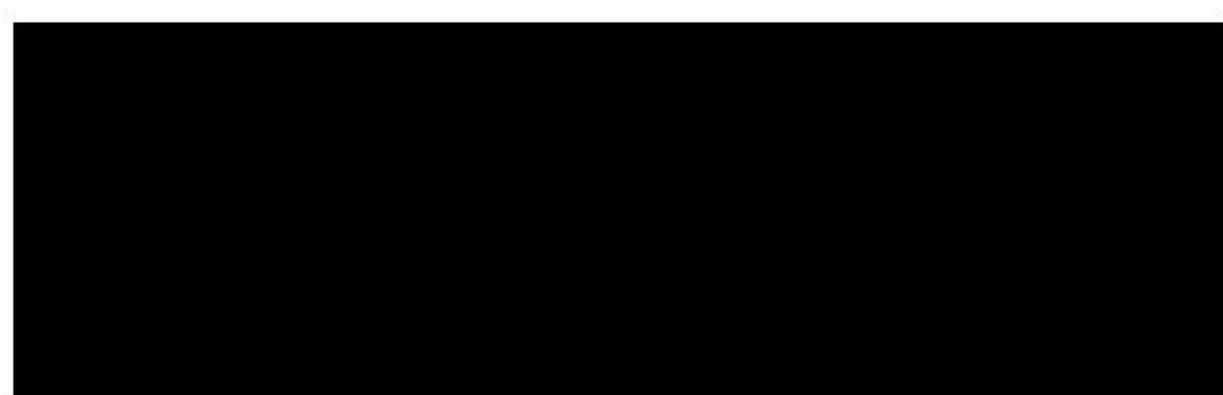


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Erect extension at 10 Church Place Findhorn Forres Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **25 May 2016**



**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department

The Moray Council

Council Office

High Street

ELGIN

Moray IV30 1BX



**IMPORTANT  
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

**SCHEDULE OF REASON(S) FOR REFUSAL**

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to Policy H4 and IMP1 of the adopted Moray Local Development Plan 2015 where, by reason of the location and design (including size and depth of projection), the extension would be an intrusive form of development which would have an adverse effect upon and detract from the character, amenity and appearance of the existing property and the surrounding area.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Elevations
		Ground Floor Plan
		Location and Block Plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,  
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

N/A

**DETAILS OF MATTERS SPECIFIED IN CONDITIONS**

Approval, consent or agreement has been GRANTED for the following matter(s):-

N/A

The matter(s) was/were specified in conditions imposed on the earlier grant of planning permission:-

N/A

**NOTICE OF APPEAL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from [www.eplanning.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



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## APPENDIX 2

## REPORT OF HANDLING

## **REPORT OF HANDLING**

<b>Ref No:</b>	16/00492/APP	<b>Officer:</b>	Cathy Archibald
<b>Proposal Description/ Address</b>	Erect extension at 10 Church Place Findhorn Forres Moray		
<b>Date:</b>	23/05/2016	<b>Typist Initials:</b>	LRM

### **RECOMMENDATION**

Approve, without or with condition(s) listed below		N
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		N
Notification to Scottish Ministers/Historic Scotland		N
Hearing requirements	Departure	N
	Pre-determination	N

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	14/04/16	No objection
Transportation Manager	28/04/16	No objection subject to conditions

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
H4: House Alterations and Extensions	Y	See Observations
EP9: Contaminated Land	n	
T2: Provision of Access	N	
T5: Parking Standards	N	
IMP1: Developer Requirements	Y	See Observations

### **REPRESENTATIONS**

Representations Received	YES	
Total number of representations received TWO		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the Data Protection Act.		
Summary and Assessment of main issues raised by representations		
<b>Issue:</b> The proposed extension would significantly reduce both the natural and sun light reaching the		



only window for the primary living room of our property. Neighbouring bedrooms will also be affected. The proposal will extend significantly beyond the line of the front wall and as such we believe will significantly and negatively alter the appearance and aesthetics of Church Place and may set precedence where no front extension have otherwise been permitted.

Concerns regarding the height of the extension and the impact on a loss of residential amenity through overshadowing.

**Comments (PO):** See Observations below where such matters are addressed. It should be noted that there is no specific right to direct sunlight.

**Issue:** Concern of loss of view.

**Comments (PO):** The loss of a view is not a material planning consideration.

**Issue:** The Scottish Governments Guidance on House Holder Permitted Development Rights (Circular 1/2012) which in section 4.16 states that 'The extension cannot be forward of a wall forming part of the principal elevation or side elevation if that elevation is fronting a road.'

**Comments (PO):** "Fronting" is used in a number of classes as a way of restricting permitted development. Whereby a development falls over the class threshold for permitted development a planning application can be submitted for consideration. Each planning application is determined on its own merits: in this case the proposal is unacceptable for reasons as detailed below in observations. Not constituting permitted development is not considered a negative determining factor.

**Issue:** If approved, the extension should be built 1m off the boundary to allow for construction and maintenance from within the application property.

**Comments (PO):** Where the application is being refused, no such negotiation took place. Domestic extensions are commonly build right up to the boundary of the parent property, and in the event planning permission were granted, it does not negate or remove, any separate permission from neighbouring landowners to access and work from their property.

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below.

### The Proposal

The application proposes to erect an extension to the front of the house with the purpose of increasing the size of the existing lounge. The extension measures approx.5.2m by 4.4m and 4m (to ridgeline of pitched roof); whilst the external material finishes are roughcast walls and concrete roof tiles both to match the existing house.

### Site and Surrounds

The property is an end terraced single storey house located on the south side of the street at the entrance to the cul-de-sac at 10 Church Place, in an established residential street.

The development is considered as being contrary to policies H4 and IMP1 of the Moray Local Development Plan based on the following considerations.

### Policy Assessment

Impact upon the surrounding locality (H4, IMP1)

The proposal is required to be assessed against Policy H4: House Alterations and Extensions and IMP1: Development Requirements in terms of style, scale, proportions, materials and the potential impact on the surrounding area. The main issue for consideration is whether the proposed extensions

will have any adverse effects or impacts on the amenity of the existing house and the surrounding area, including any neighbouring dwellings.

In this case, as part of a short terrace of properties visible from Church Street, the proposed extension in terms of its location (on front elevation) and size will be an intrusive and dominant feature within the streetscape. This is because there are no other extensions on the front elevations of surrounding properties and in terms of its depth, the extension takes up half of the front garden area and would unbalance the symmetry of the cul-de-sac when viewed from its entrance. The proposal, although single storey, has the potential to impact upon the amenity of the two neighbouring properties to the north east, in terms of its orientation and impact on sun and day light considerations. While there is no specific entitlement to direct sunlight, it is reasonable on the front elevation to have an expectation of an open aspect onto the street, especially where in the case of Church Place the properties benefit from relatively large front gardens. The amenity of neighbouring properties front elevations which currently receive limited sunlight when the sun is in the west or north west is a feature of the amenity that would be lost should such an extension go ahead. In terms of daylight being single storey should not result in an unacceptable loss of daylight to the neighbouring properties.

The combination of the location and design of the extension arrangements would detract from and have an adverse effect upon the character, amenity and appearance of the existing property and the surrounding area. As such, the proposals would be unacceptable and contrary to policies IMP1 and H4.

### Conclusion

The proposal does not conform to all the relevant policies in the Moray Local Development Plan 2015 as described above and therefore being refused.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

### HISTORY

Reference No.	Description			
92/00329/FUL	Erect wooden garage 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	Permitted	Date Of Decision	21/05/92
95/00328/FUL	Erect garage at 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	Permitted	Date Of Decision	19/05/95

### ADVERT

Advert Fee paid?	N/A		
Local Newspaper	Reason for Advert	Date of expiry	

### DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
--------	-----

**DOCUMENTS, ASSESSMENTS etc. \***

*\* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
--	--	----

Summary of main issues raised in each statement/assessment/report
---

Document Name:
----------------

Main Issues:
--------------

**S.75 AGREEMENT**

Application subject to S.75 Agreement		NO
---------------------------------------	--	----

Summary of terms of agreement:
--------------------------------

Location where terms or summary of terms can be inspected:
--

**DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)**

Section 30	Relating to EIA		NO
------------	-----------------	--	----

Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
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Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
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Summary of Direction(s)
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## APPENDIX 3

## LOCATION & BLOCK PLAN





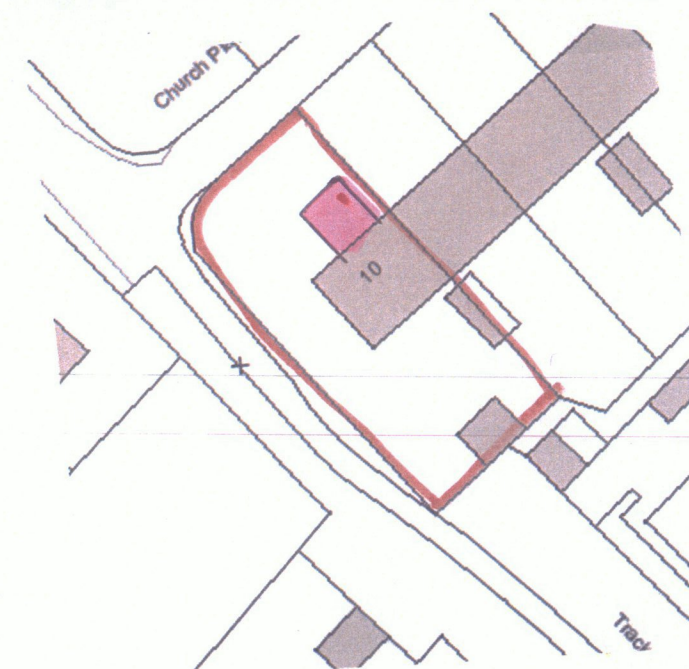
**LOCATION PLAN**  
scale 1:2500

Town & Country Planning  
(Scotland) Act, 1997  
as amended

**REFUSED**

25/05/16

Development Management  
Environmental Services  
The Moray Council



**BLOCK PLAN**  
scale 1:500

project  
PROPOSED EXTENSION  
address  
10 CHURCH PLACE, FINDHORN  
client  
MR & MRS R SHAND  
date  
MAR 2016  
scale  
1:50





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## APPENDIX 4

## GROUND FLOOR PLAN









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## APPENDIX 5

## ELEVATIONS

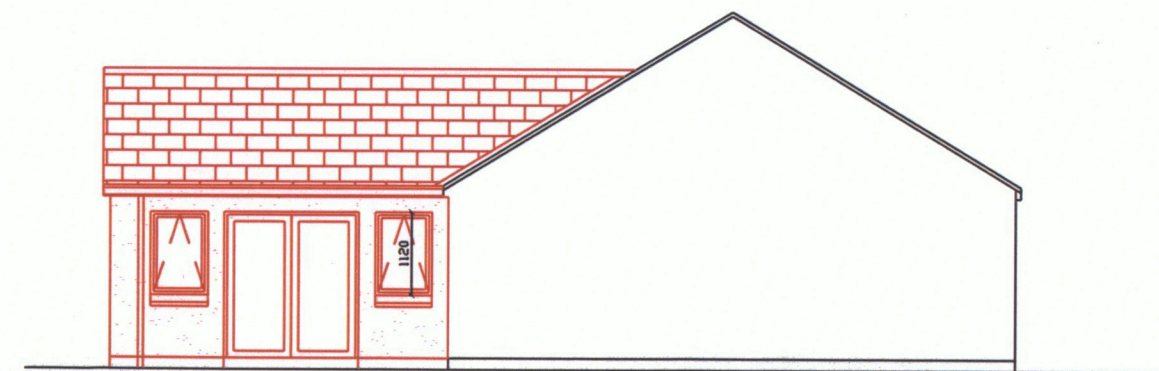
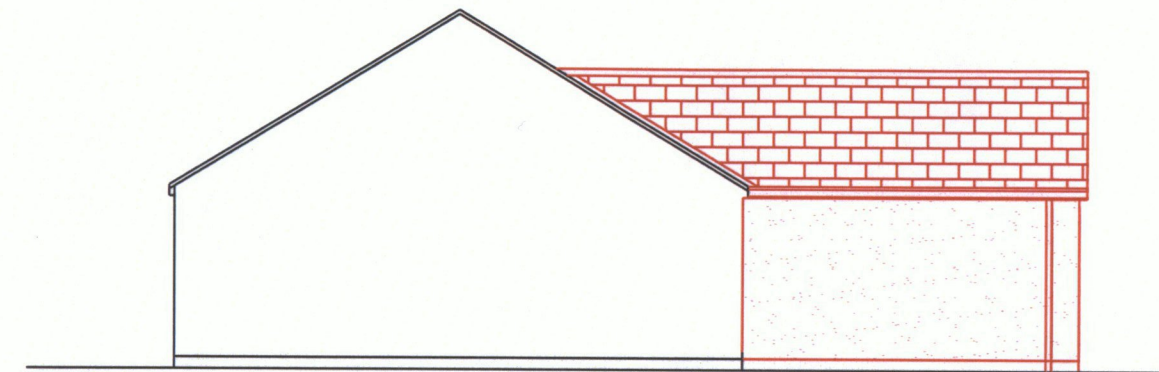
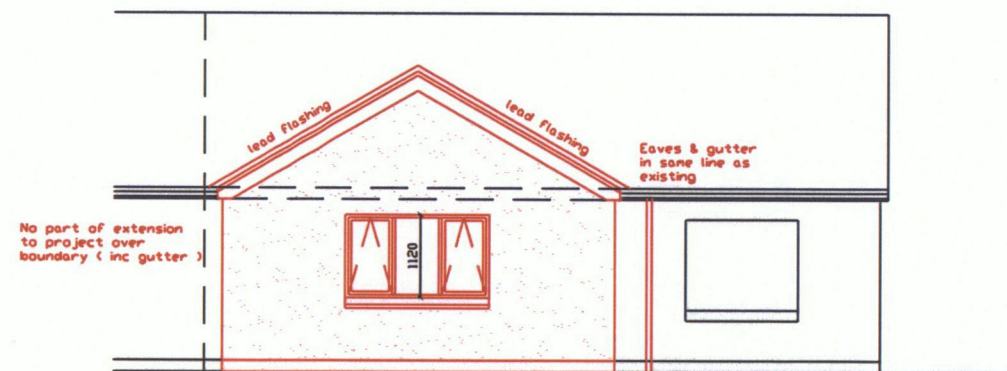


Town & Country Planning  
(Scotland) Act, 1997  
as amended

**REFUSED**

25/05/16

Development Management  
Environmental Services  
The Moray Council



**ELEVATIONS**  
scale 1:100

EXTERNAL FINISHES  
CONCRETE ROOF TILES TO MATCH EXISTING  
ROUGHCAST TO MATCH EXISTING

project  
PROPOSED EXTENSION  
address  
10 CHURCH PLACE, FINDHORN  
client  
MR & MRS R SHAND  
date  
MAR 2016