

LOCAL REVIEW BODY STATEMENT OF CASE TO SUPPORT

PLANNING APPLICATION TO ERECT EXTENSION AT 10 CHURCH PLACE, FINDHORN

APPELLANT

MR SHAND

**COUNCIL
PLANNING REF.**

16/01599/APP

DATE.

15 DECEMBER 2016

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1.0 INTRODUCTION

- 1.1 This Local Review Statement of Case has been prepared to support a recently refused detailed Planning Application, proposing a sun lounge extension to the front of the appellant's property
- 1.2 The planning application was registered on 17th October 2016 and was refused on 02nd December 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 Properties in this area are either single storey houses or with converted attic areas. The 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 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 extension has been designed to ensure that no windows will look onto the adjoining property (8 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.
- 1.4 From the earlier application and subsequent LRB meeting indicates some points which requires to be taken into account for this revised application:-

The Chair noted that whilst light was a material consideration, there was no legal requirement for a setback distance from the boundary and any access required would be dealt with through agreement with the neighbour.

Referring to the shadow effect plan shown on page 63 of the report, Councillor Cowie stated that the impact would be far greater on the neighbouring property if the distance was 200mm and not 800mm as shown. In response, the Chair stated his

belief that the shadow effect would reach the main diagonal of the window and that, due to the property being north-western facing, it would only receive late evening sunlight in any case.

- 1.5 The initial debate at the LRB was the distance from the boundary being 200mm and the debate surrounded this aspect rather than the design etc.
- 1.6 On the basis of the initial concerns and that noted by the LRB the applicant proposed extension has been moved to 1000mm away from the boundary.
Proposal has changed in shape to remove perceived size of extension and to propose an element of a feature to the extension
Initial sun Lounge had a ridge height of 4000mm and the new proposal has been reduced to 3675mm a reduction of 325mm to help reduce the mass of the extension

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 applicant however, understand that this should not be the primary reason for refusing a domestic planning application. In fact the other householders may not require to extend their current property.
- 3.2 Within the Report of handling (document 02) this states ON PAGE 1 under "DEVELOPMENT PLAN POLICY" that H4: House Alterations and extensions, IMP1 Developer Requirements are both **NOT A DEPARTURE**. It further notes it notes **COMPLIES** On this basis we query the process of this refusal.
- 3.3 The Report of Handling states upon page 2 "**hexagon shape and is further from the shared boundary which would have less of an impact on the amenity of the neighbouring property.....**"
- 3.4 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.
- 3.5 In this instance the applicant'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.
- 3.6 As noted above, the application was only progressed with a front extension after viewing numerous others around Moray, including the following:

- Manse Rad, Hopeman



- Covesea Road, Lossiemouth



- in 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.

The main point to these noted approved extensions is that they are within similar cul de sac neighbourhoods and are exactly that of this proposals.

Therefore, the appellant asserts that his development would be no more intrusive and/or dominant in its urban setting than the ones noted which have been acceptable

3.8 Similar extensions within Findhorn Conservation Area, numerous of which overlooking the bay and are clearly visible from the main thoroughfares around Findhorn.

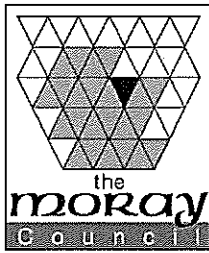
3.9 This extension will not unduly harm the character of the area and or create an intrusive development.

3.10 Finally, in terms of the amenity impact on the neighbouring property, the current boundary treatment between the appellant property and neighbouring property is a hedge which extends too over 6 foot (1800mm) in height which will remain as part of this application. The single storey low pitched extension should result in no greater loss of sunlight and/or daylight to the neighbouring property than the current situation which can be reviewed under Appendix 4.

5.0 CONCLUSION

- 4.1 Within the Report of handling (document 02) this states under "DEVELOPMENT PLAN POLICY" that H4: House Alterations and extensions, IMP1 Developer Requirements are both **NOT A DEPARTURE**. It further notes it notes **COMPLIES** . On this basis we query the process of this refusal
- 4.2 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 that a positive recommendation can be provided.

APPENDIX 1 – COUNCIL DECISION NOTE

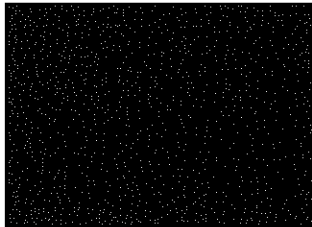


**THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

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 a sun lounge (revised design) at 10 Church Place Findhorn Forres Moray

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

Date of Notice: **6 December 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 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
		Site and location plan
		Elevations
		Ground floor plan

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

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.

APPENDIX 2 – REPORT OF HANDLING

REPORT OF HANDLING

Ref No:	16/01599/APP	Officer:	Cathy Archibald
Proposal Description/ Address	Erect a sun lounge (revised design) at 10 Church Place Findhorn Forres Moray		
Date:	02.12.2016	Typist Initials:	LMC

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

Consultee	Date Returned	Summary of Response
Contaminated Land	19/10/16	No objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
H4: House Alterations and Extensions	N	Complies
EP9: Contaminated Land	N	Complies
IMP1: Developer Requirements	N	Complies

REPRESENTATIONS

Representations Received	YES	
Total number of representations received: ONE		
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		
Issue: The proposed extension would significantly overshadow and reduce both the natural and sun light reaching the only window for the primary living area of our property, namely the combined living/dining room. The extension is on the primary elevation of the row of houses and is fronting the road to the property and will extend significantly beyond the line of the front wall and as such we believe this and any precedence it may set will significantly and negatively alter the appearance and aesthetics of Church Place. We also believe that this is not a small extension as suggested by the title of a sun lounge but is in fact a significant extension.		

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			
97/02036/ID	Install a satellite dish at 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	ID/PE Answered	Date Of Decision	25/11/97
16/00492/APP	Erect extension at 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	Refuse	Date Of Decision	25/05/16
95/00328/FUL	Erect garage at 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	Permitted	Date Of Decision	19/05/95
92/00329/FUL	Erect wooden garage 10 Church Place Findhorn Forres Moray IV36 3YR			
	Decision	Permitted	Date Of Decision	21/05/92

ADVERT

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

APPENDIX 23- PLANNING SUPPORTING STATEMENT

SUPPORTING STATEMENT

PLANNING APPLICATION TO ERECT EXTENSION AT 10 CHURCH PLACE, FINDHORN

APPLICANT

MR SHAND

**COUNCIL
PLANNING REF.**

16/01599/APP

DATE.

14 DECEMBER 2016

1.0 INTRODUCTION

- 1.1 This supporting Statement has been prepared to accompany the revised Planning application as submitted 17th October 2016 proposing a lounge extension to the front of the applicant's property.
- 1.2 The revised application has taken into account the minutes of the Local Review Body (LRB) dated 29th September 2016
- 1.3 The initial application was refused for the reason below and after due consideration, the applicant has reviewed and revised the design.

"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."

- 1.4 Some comments from the LRB meeting indicates some points which requires to be taken into account for this revised application:-

The Chair noted that whilst light was a material consideration, there was no legal requirement for a setback distance from the boundary and any access required would be dealt with through agreement with the neighbour.

Referring to the shadow effect plan shown on page 63 of the report, Councillor Cowie stated that the impact would be far greater on the neighbouring property if the distance was 200mm and not 800mm as shown. In response, the Chair stated his belief that the shadow effect would reach the main diagonal of the window and that, due to the property being north-western facing, it would only receive late evening sunlight in any case.

- 1.5 The initial debate at the LRB was the distance from the boundary being 200mm and the debate surrounded this aspect rather than the design etc.

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.
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- 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 extension has been designed to ensure that no windows will look onto the adjoining property (8 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.

- Manse Rad, Hopeman



- Covesea Road, Lossiemouth



- 3.5 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.

The main point to these noted approved extensions is that they are within similar cul de sac neighbourhoods and are exactly that of this proposals.

Therefore, the applicant's asserts that his development would be no more intrusive and/or dominant in its urban setting than the ones noted which have been acceptable

- 3.6 Similar extensions within Findhorn Conservation Area, numerous of which overlooking the bay and are clearly visible from the main thoroughfares around Findhorn.
- 3.7 This extension will not unduly harm the character of the area and or create an intrusive development.
- 3.8 Finally, in terms of the amenity impact on the neighbouring property, the current boundary treatment between the appellant property and neighbouring property is a hedge which extends too over 6 foot (1800mm) in height which will remain as part of this application. The single storey low pitched extension should result in no greater loss of sunlight and/or daylight to the neighbouring property than the current situation which can be reviewed under Appendix 2.

APPENDIX 1 – MINUTES OF LRB MEETING DATED 29/9/16

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application to erect an extension at 10 Church Place, Findhorn.

There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

The Moray Local Review Body (MLRB) agreed that it had sufficient information to determine the request for review.

With regard to the unaccompanied site inspection carried out on 27 September 2016, Mr Henderson, as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place and provided with a summary of the reasons for refusal and the Applicant's Grounds for Review. The Planning Adviser also advised Members that, within the Applicant's response to further representations, as set out on page 63 of the report, there is a factual inaccuracy in the plan provided that shows the front elevation and the shadow effect. He noted that that the plan shows that the proposed extension as 800mm from the boundary with the adjacent property, however, the elevation and block plan in the original application shows it as being approximately 200mm from the boundary. He advised that, as such, should the MLRB be minded to uphold the review, the original plan on page 8 of the report, showing the property being 200mm from the boundary, will be approved.

The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal is contrary to Policy H4: Housing Alterations and Extensions and IMP1: Developer Requirements 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.

Cowie stated that the impact would be far greater on the neighbouring property if the distance was 200mm and not 800mm as shown. In response, the Chair stated his belief that the shadow effect would reach the main diagonal of the window and that, due to the property being north-western facing, it would only receive late evening sunlight in any case.

Councillor Shepherd stated that he was of the same opinion as Councillor Reid and seconded her motion.

The Chair advised that he did not believe there would be any problems with light and that the proposal was in keeping with surrounding properties, therefore complying with Policies H4 and IMP1. Accordingly, he moved that the review be upheld and planning permission be granted in respect of Planning Application 16/00492/APP subject to standard and consultee conditions. This was seconded by Councillor McConachie.

Councillor Cowie stated that he was of the same opinion as Councillors Reid and Shepherd.

In response to comments regarding daylight and sunlight, Mrs Gordon, Planning Officer (Planning & Development) referred the MLRB to the Appointed Officer's Report of Handling, on page 21 of the report, which addressed the impact and how it was considered in the overall planning application.

On the invitation of the Chair to summarise her motion, Councillor Reid stated that she was of the opinion that the proposal was intrusive and not in keeping with the surrounding area.

Summarising his amendment, the Chair advised that this was a difficult case to consider but believed the loss of light was not unacceptable.

On a division, there voted:-

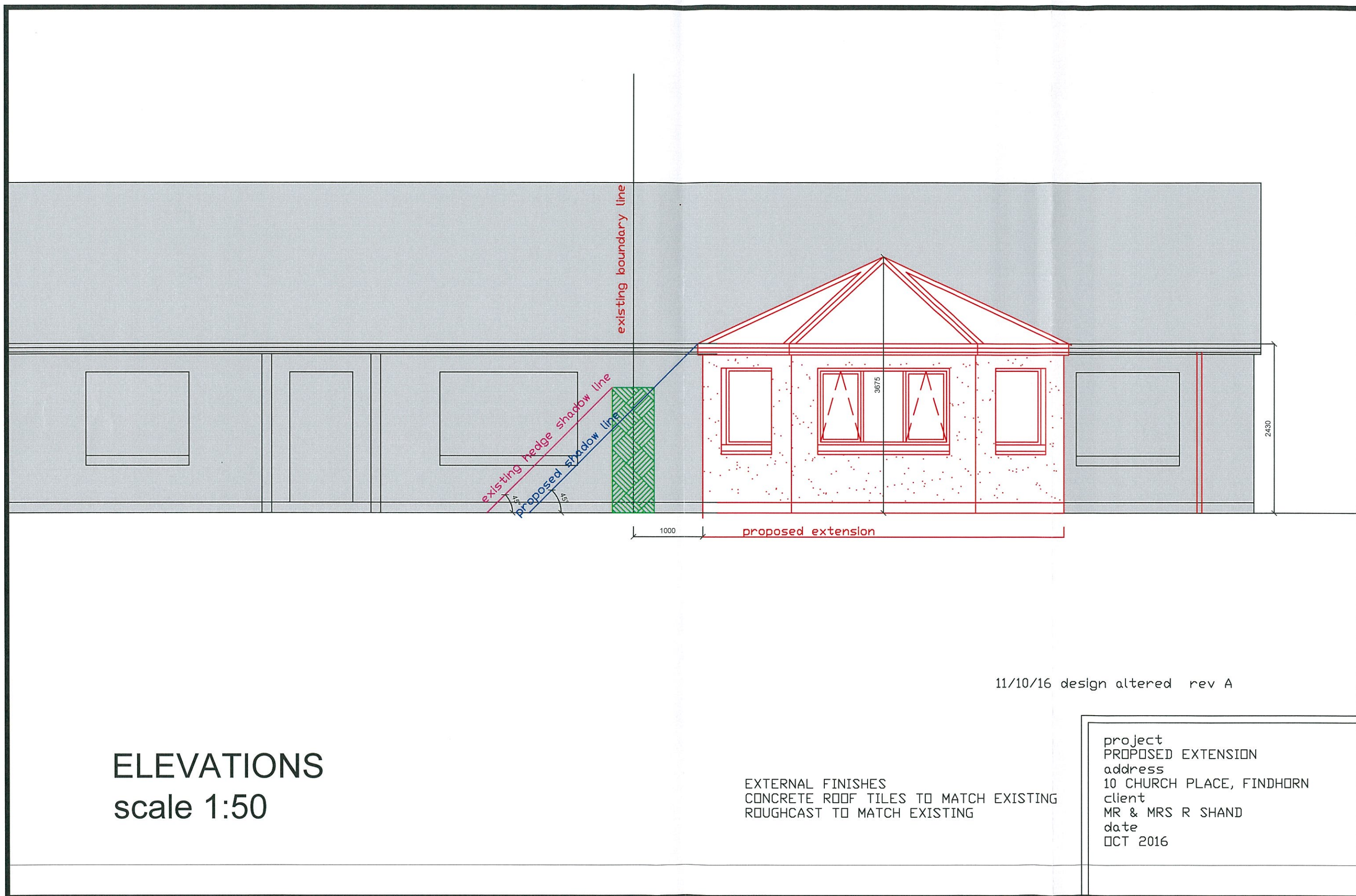
For the Motion (3):- Councillors Reid, Shepherd and Cowie

For the Amendment (2):- Councillors Tuke and McConachie

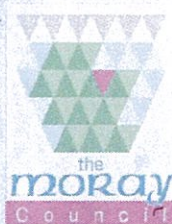
Abstentions (0)

Noting an error by the Clerk in announcing the outcome of the vote, the Chair confirmed that the motion was carried and the MLRB agreed to dismiss Case LR166 and uphold the Appointed Officer's decision to refuse planning permission in respect

APPENDIX 2 – ELEVATION SHOWING EXISTING HEDGE / PROPOSED EXTENSION



APPENDIX 2 – LOCATION / BLOCK PLAN, ELEVATIONS, FLOOR PLAN



LOCATION PLAN

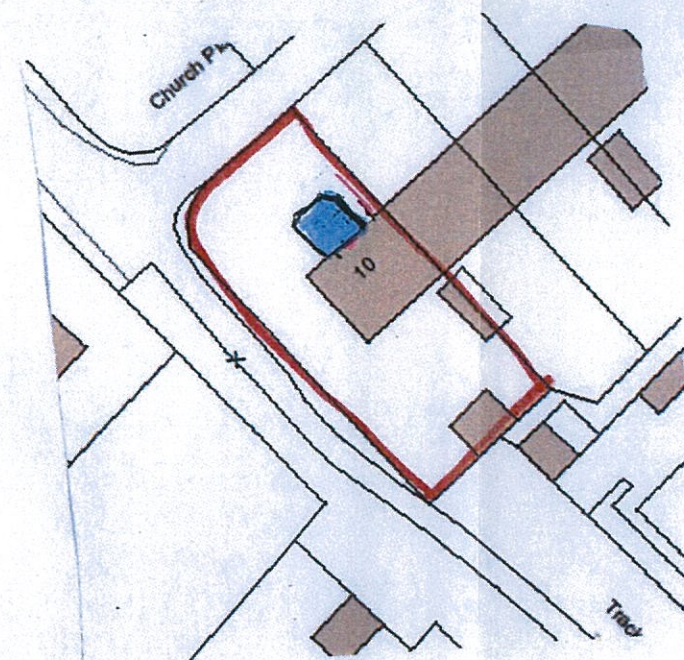
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Town & Country Planning
(Scotland) Act, 1997
as amended

REFUSED

06 December 2016

Development Management
Environmental Services
The Moray Council



BLOCK PLAN

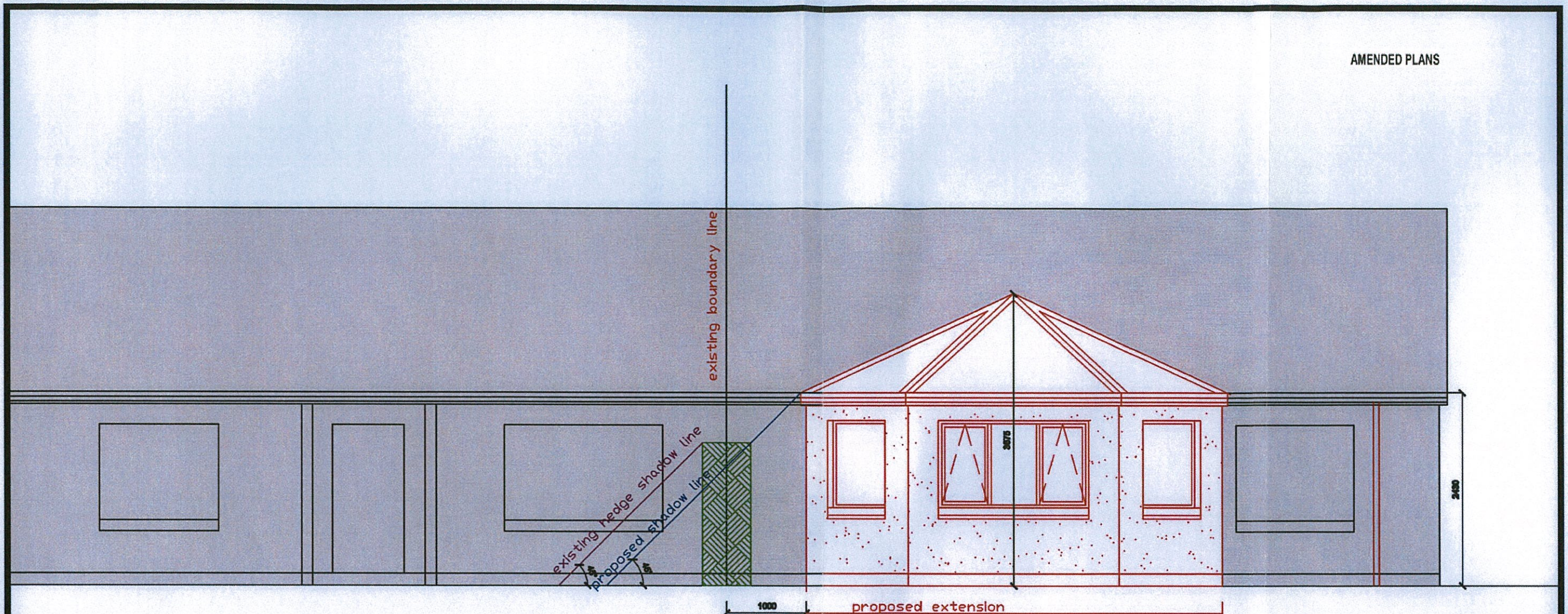
scale 1:500

17 OCT 2016

16/01599/APP

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

AMENDED PLANS



ELEVATIONS
scale 1:50

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

REFUSED

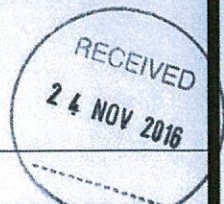
06 December 2016

Development Management
Environmental Services
The Moray Council

11/10/16 design altered rev A

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
OCT 2016



16/01599/APP

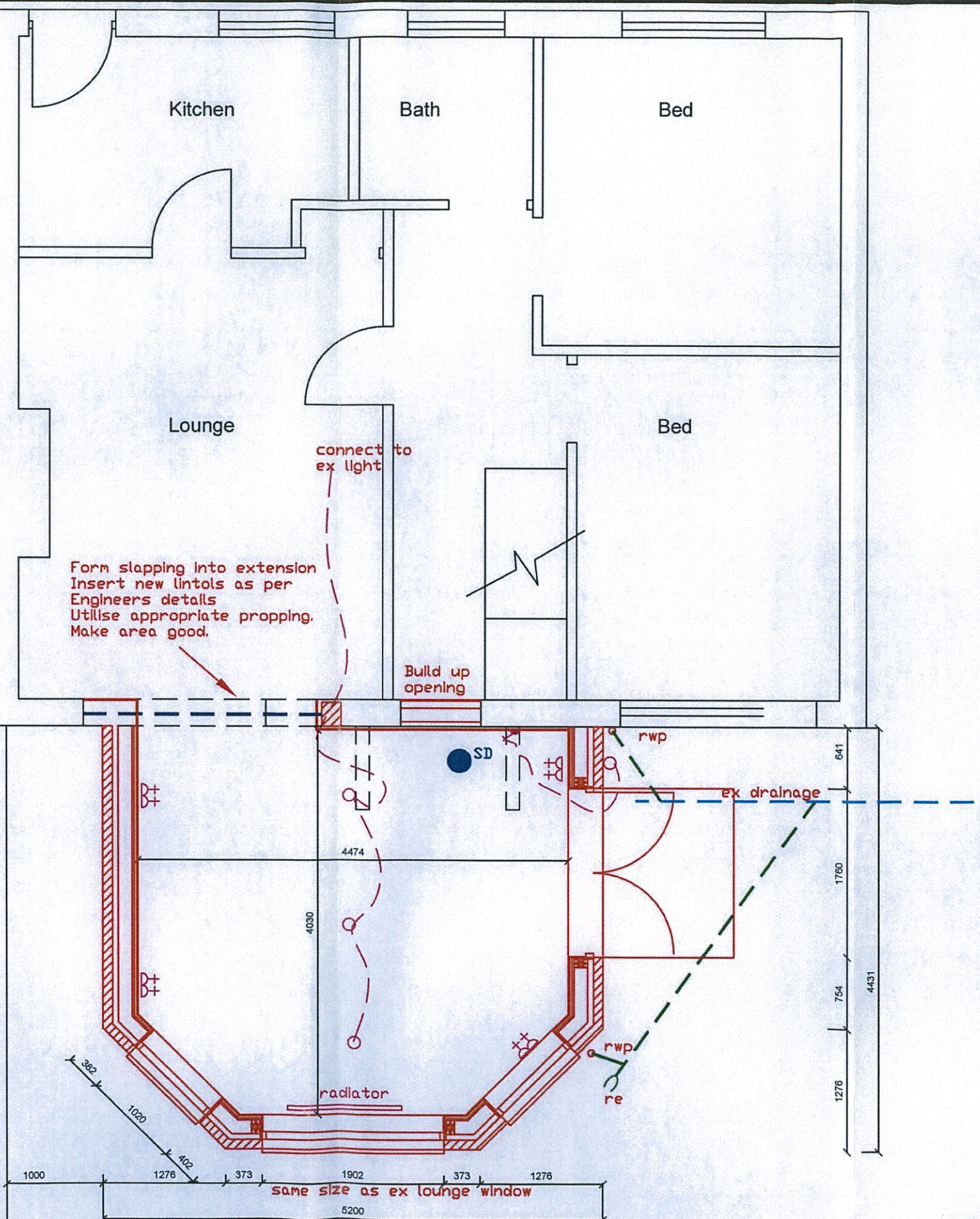
GROUND FLOOR PLAN scale 1:50

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

REFUSED

06 December 2016

Development Management
Environmental Services
The Moray Council



11/10/16 design altered rev A

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

scale
1:50

17 OCT 2016

16/01599/APP