

LOCAL REVIEW BOARD APPEAL

*DEMOLITION OF EXISTING COMMERCIAL BUILDING AND
ERECT 2 DWELLING HOUSES ON GARAGE SITE AT CHAPEL
LANE, LOSSIEMOUTH*



May 2017

**St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN**

**t. 01343 540020
w. cmdesign.biz**

**4 Bridge Street
Nairn
Highland
IV12 4EJ**

**t. 01667 300230
w. cmdesign.biz**



St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN

planning**consultancy** • architectural**design** • project**management**

t. 01343 540020 f. 01343 556470
e. office@cmdesign.biz

The following Statement of Case, submitted by **CM Design Town Planning & Architectural Consultants**, has been prepared to support a Local Review Board submission to

Demolish an existing and substantial commercial workshop building to erect 2no semi-detached dwellings.

Our Reference:	160045/MANSFIELD
Local Authority:	The Moray Council
Planning Application Ref:	16/01901/APP
Application Proposal:	Demolish existing commercial building and erect 2 dwelling houses on brownfield site
Site Address:	Garage site, Chapel Lane, Lossiemouth, Moray
Appellants:	Mr J Mansfield
Date Application Validated:	15 th December 2016
Council Decision Notice Date:	7 th February 2017
Reason for Refusal:	<p><i>"The proposed would be contrary to policies IMP1, H1 and PP3 in the Moray Local Development Plan 2015 for the following reasons;-</i></p> <p><i>1) Due to the levels, scale of development and closeness to the boundary the houses would have a dominating relationship with the neighbouring houses, to the detriment of the privacy and amenity of those properties (with reference to houses 'Wyndale' to the N.E. and 'Fetlar' to the S.E).</i></p> <p><i>2) The two houses proposed represent overdevelopment of the site to the detriment of the openness and visual character of the area.</i></p>

1. INTRODUCTION

1.1 This case relates to the appellants desire to **demolish** an unsightly, significantly large and dilapidated commercial workshop in favour of **2 semi-detached dwelling houses**.

1.2 For the development of the parcel of land to be **financially feasible**, it is vital that **2 units** are proposed.

1.3 The costs of demolition, site works and the potential for contamination from the past use of the workshop renders the site too expensive to simply develop for a single unit.

1.4 In the midst of this Review Statement, the appellant seeks to demonstrate that;

- the amenity of the area will be significantly **enhanced** by the current proposals.
- the proposal for two houses can be accommodated within the streetscape without impacting on amenity.
- that an **increased site size, reduced house size** and **removal of various windows** addresses all of the concerns raised in previous applications and by previous applicants.
- All reasons for refusal to previous applicants, have been dealt with including, house size, house position, site size and privacy.
- Lastly, that the passage of time since the early attempts by others to develop this site in 2005 would suggest evidence that **development is not feasible** without the site yielding two properties.



Figure 1 - view of commercial building on site

1.5 Note - The potential for a single house has been confirmed by the Planning Case officer in the Handling Report. **It is therefore suggested that if privacy can be deemed sufficient for one property, it should also be deemed sufficient for two.**

1.6 This proposal **sufficiently complies** with the requirements of IMP1, H1 and PP3 and **material considerations** exist to overcome issues where compliance might be in question.

2. Site Description & Background

2.1 The site of the current commercial workshop measures circa 297m² of which the large unsightly building occupies 183m². This eyesore rests upon the North, West and East boundaries of the site, casting significant shadow across the grounds of neighbouring properties.

2.2 The remaining 115m² of ground is given over to a patchwork of broken concrete hardstanding, which discharges storm water onto the carriageway.

2.3 All roof water from the existing building is also discharged to the carriageway

2.4 In **contrast to previous applications** stretching back to 2005, the applicant in this case owns the parcel of unused ground to the North East of the site and chose to include this land with this latest application.



Figure 2 - scale of existing delapidated building

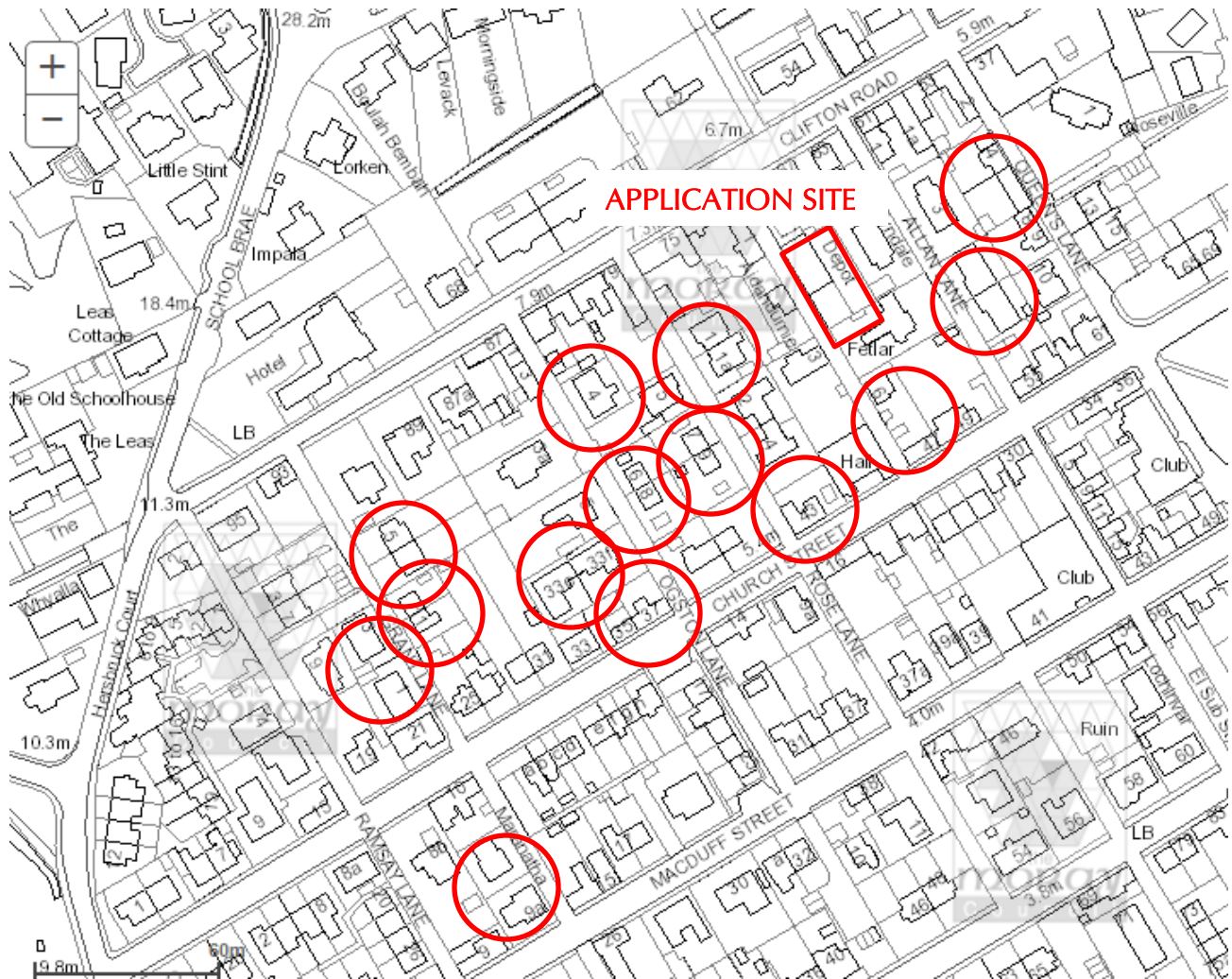
2.5 This **doubled the size** of the existing site and addressed previous concerns from the 2005 application, that the site was too small for 2 houses.

2.6 The entire site for the proposals measures **582m²**, double area involved in the 2005 application.

2.7 It is perhaps worthwhile to note that the existing workshop occupies **38%** of the existing site and that the current proposals will enjoy that same ratio of development versus open space. There is therefore **no reduction in open space** whilst there is a considerable **increase in amenity**.

2.8 Several examples of site sizes of this same nature exist in the immediate vicinity of the application site and throughout Lossiemouth are shown here (see next page)

Examples of semi-detached and/or small site properties in immediate vicinity.



LOCAL REVIEW PLANNING APPEAL STATEMENT OF CASE – DEMOLISH EXISTING COMMERCIAL BUILDING AND ERECT 2NO SEMI DETACHED DWELLINGS AT CHAPEL STREET, LOSSIEMOUTH

3. STATEMENT OF CASE

3.1 Section 25 of the Town and Country Planning (Scotland) 1997 Act (as amended) requires that planning applications be determined in accordance with the development plan **unless material considerations require otherwise.**

3.2 Moreover, it should be recognised that the **principle** of the current local development plan is to **guide** development decisions across Moray but **not to preclude** focussed and local decision making which better informs localised development at any given point in time.

3.3 The current Development plan requires that – *“In determining planning applications, the Council will apply appropriate weight to all of the issues and material considerations before reaching a decision”*

3.4 Given the unique nature of the street layout and housing mix in and around the application site, it is suggested that sufficient scope exists to apply more *“appropriate weight to several issues to reach a decision”* as suggested by the Current development Plan.

3.5 Given the unavoidable costs of developing a former commercial brownfield site in the middle of a residential area, it is considered vital that the applicant be allowed to maximise any potential gain to ensure that such a proposal is feasible.

3.6 Whilst it is understood that such gain should not require that Policy be ignored, the applicant contends that all of the issues raised in relation to the need for a two house development, over several years and differing applicant and applications, have been satisfactorily addressed in this case.

3.7 For example, the original application in 2005 by another applicant did not have access to parcel of land to the rear, forcing the frontage of any house to be almost upon



Figure 3 - 2005 application - refused

the road side and also included for a full two storey terraced development. This has been more than addressed in this case, as have more recent reasons for refusal over the years.

3.8 This current application involves a site which has now **doubled in size**, with the same number of dwellings, affording more garden space, more parking space, ample separation from the roadside and a significantly reduced scale of house design.

3.9 In consultation with neighbours and prior to refusal by the Case Officer, the ridge height of the proposals was reduced and all fenestration amended to remove or limit the ability for occupants to overlook neighbouring properties. his development therefore complies with Policy IMP1, H1 and PP3

3.10 However, in the face of suggested non-compliance with these Policies, the appellant suggests several **material considerations** that might negate this position and these are looked at in more detail under “Policy Compliance” later in this Statement of Case.

4 POLICY COMPLIANCE

4.1 In the context of what is being replaced, the appellant contends that this application meets the general aims and requirements of each of the Policies IMP1, H1 and PP3

4.2 However, given that the Planning Case officer considers these not to have been met, the following observations are made in respect of the precise requirements of **each policy**.

4.3 POLICY IMP1 – Developer requirements

4.3.1 Scale, density and character.

The existing building occupies 38% of the existing site and the proposed development EQUALS this. The design of the buildings reflects both

Policy IMP1 Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

the traditional form of development (11/2 storey) and the more contemporary designs in the immediate and wider area.

The issue of density is not considered to be onerous with each several examples of similarly divided sites nearby



4.3.2 Integration of development

The scale of the houses was significantly reduced in response to consultations with neighbours and set back from the roadside as a result of extra land being procured.

The issue of privacy has been adequately demonstrated by the following site section which proposed fencing and positioning that does not afford any degree of overlooking to the neighbouring properties.



Figure 5 - cross section showing viewable angles

4.3.3 Footpaths

There are no footpaths along this particular stretch of grid-iron streetscape and nor many others than run between the principle streets in this area of Lossiemouth.

Moreover, the proximity of the building to the streetside boundary offers zero relief from the roadway along its length and is presents an element of danger from any vehicle emerging from the site as existing.

4.3.4 Drainage & renewables

This issue will be adequately dealt with in the midst of any Building Warrant application.

4.3.5 Open space

This requirement is intended for the consideration of larger developments but, as has been demonstrated previously, this application yields greater open space and amenity space than existed previously.

4.3.6 Landscaping/flooding/enhancement/contamination

The final requirements of IMP1 are more than adequately met by these proposals.

4.3.7 IMP1 conclusions

The aim of IMPA is to direct developers of any scale toward sensitive and well designed proposals which are appropriate to the amenity of the surrounding area.

Such a consideration would normally be very subjective but the appellant contends that the nature of housing, proximity to boundaries and small sites in the immediate area all provide context and justification for these proposals.

The appellant further contends that the issue of privacy has been adequately mitigated.

4.4 POLICY H1 – Windfall sites within settlements

4.4.1 Impact upon the surrounding environment

Some of the immediate neighbours supported this applications. This demonstrates a clear preference to the unsightly situation that exists at present and an acceptance that the proposals do not present an adverse impact.

Having proven that small house sites existing all around the application site, it is suspected that the issue of loss of privacy might be the key issues at stake.

The previous section shown under paragraph 4.3.2 demonstrated that the occupants of the proposed dwelling cannot view into the property to the rear or side. Windows have been omitted and amended to ensure this, as well as further boundary and fence proposals to limit any field of view.

4.4.4 Service and infrastructure

Statutory Consultees have not objected and all services are available.

4.4.5 Alternative use

The site desperately requires to be brought into domestic use and in keeping with its surroundings, as proposed by the appellant.

4.4.6 Compliance with PP3 and IMP1

The appellant contends that the proposals do meet the needs and aims of IMP1 and PP3 as described herein

Policy H1

Housing Land

Windfall sites within settlements

New housing on land not designated for residential development within settlement boundaries will be acceptable if;

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use
- d) The requirements of policies PP2, PP3 and IMP1 are met.

4.5 POLICY PP3 – Placemaking

4.5.1 Sense of arrival

The existing scene on site is at odds with its surrounding in every way possible. The proposal present a more amenable streetscape which is appropriately separated from neighbouring buildings and in any case more sufficiently than the existing building on site.

4.5.2 Safety/Anti social behaviour

The removal of a delapidated and vandalised building and an unsecure commercial compound with contribute to a decrease in illicit loitering and ant social behaviour in an around the site.

The open nature of the existing compound afford un-surveiled access to the rear gardens of all properties that bound the site.

Development will undoubtedly contribute to a greater sense of community safety and well being for surrounding home owners.

4.5.3 Accessibility

The site will present a safer means of access allowing vehicles to enter and egress ina forward gear. The absence of any footpaths along this street will be negated by the relief offered by the driveways and open spaces presented by the two new house sites.

4.5.4 Design standards

The modest nature of all surrounding houses and neighbouring site sizes demand a similarly modest house design. The current proposals present traditional finishes, form and roof pitches whilst allowing for spacious family living and manageable garden space.

PP3 Placemaking

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

4.5.5 Parking

No objection with regard to parking has been raised by the Roads Department

It is clear that should the site return to its former commercial use, that the burden of parking upon the existing street would increase and present danger and inconvenience to other home owners and road users.

The current proposals create additional and adequate off street parking for both units in compliance with Council standards.

Definition of space

Each property presents a formal frontage to Chapel Street and new boundary treatments are proposed which will clearly indicate ownership.

4.5.6 PP3 – conclusions

Similarly to the Planning Case officers position on Policy H1, it would appear that perceived compliance with PP3 could suffer a very **subjective consideration**.

The appellant believes that the two properties are a considerable improvement to what exists at present and can be deemed to improve the streetscape and present a commensurate and efficient use of a brown field site.

5 CONCLUSION

5.1 The Planning Case Officer commented that *“due to the levels, scale of development and closeness to the boundary, the houses would have a dominating relationship with the neighbouring houses, to the detriment of privacy and amenities of those properties”..and...” the two houses proposed represent overdevelopment of the site to the detriment of the openness and visual character of the area”*

5.2 The Planning Officer specifically mentions the properties Wyndale and Fetlar, both of whom do not object to these proposals.

5.3 If the location and its immediate and wide area did not enjoy sites and semi-detached housing of a similar nature, then the above comments of the Planning Case officer could perhaps be sympathised with.

5.4 If the existing site did not suffer the most ghastly carbuncle of a commercial building, of such a scale that currently overshadows and imposes upon every neighbour and the streetscape, then the aforementioned comments by the Planning Case Officer could perhaps be sympathised with.

5.5 The appellant assumes that the Planning Case officer and indeed the Board might well be minded to see this site improved and the commercial building removed and therefore might assume that it is merely the **need for two houses** and the matter of **privacy** that is at issue here.

5.6 That being the case, the appellant has sought to demonstrate the precedent for similar sites sizes in the immediate area and the measures proposed to mitigate any risk of overlooking to neighbouring properties.

5.7 In respect of the issued of privacy, calculations and amendments to window arrangements have demonstrated that occupants of the proposed property wioll not be able to overlook neighbouring properties

5.8 As noted earlier in this statement, the suggestion by the Case Officer that a single site would be preferable, would suggest that the issue of privacy has been adequately dismissed. It is likely that any singe house would require to be significantly larger and thus privacy/overlooking would not be as easily managed.

5.9 Furthermore, the appellant seeks to demonstrate that the passage of time since the early attempts to develop this site by many others would prove the need for the development to be commercially viable and to this end, the need for a two house site.

5.10 Having hopefully established the precedent for small semi-detached property in the locale and the commercial need for two property development, the appellant would finally contend that the house designs are sufficiently low impact, sufficiently set back from the frontage and sufficiently acceptable to the immediate neighbours to attract very little objection or resistance.

5.11 Finally, there is an agreed need for low cost, local and small scale housing for young families and particularly in this area of Lossiemouth. These proposals serve to meet that need in a way that would appear to be generally acceptable to neighbours and in a way that could be considered to comply with Policy.

5.12 Should members decide that the proposals fall short of Policy in any particular way, the appellant believes that sufficient material considerations existing to allow a departure in any small way, if required.

5.13 It is respectfully requested that Board members uphold this appeal and approve this development.

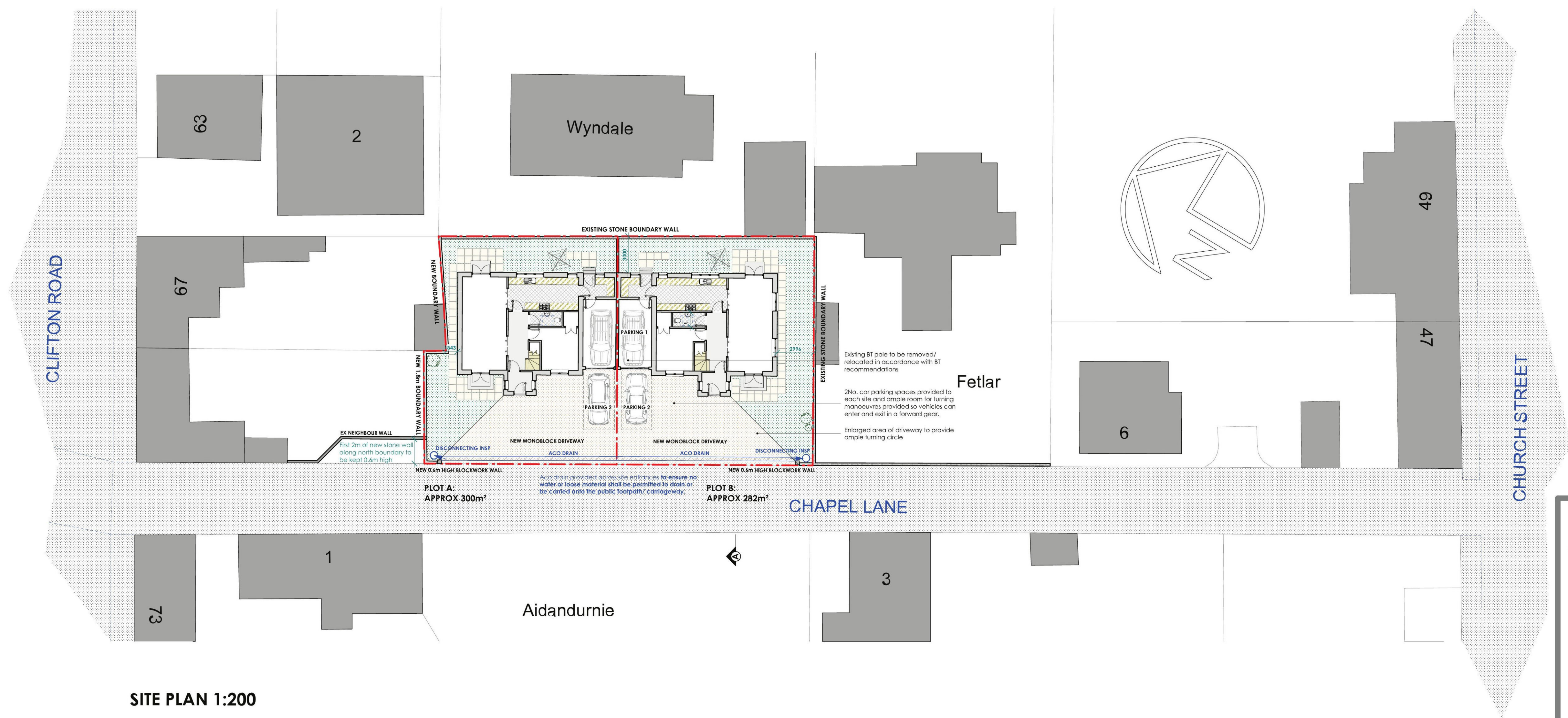
C.J.S Mackay
MD & Planning Consultant
CM Design

DO NOT SCALE OFF DRAWINGS. ALL SIZES ARE TO BE CHECKED CONFIRMED ON SITE PRIOR TO COMMENCEMENT OF WORKS/ORDERING OF MATERIALS. NO WORK TO COMMENCE BEFORE APPROPRIATE APPROVALS ARE GRANTED CONTRACTORS RESPONSIBILITY TO ENSURE POSSESSION OF APPROVED DRAWINGS

CONTRACTOR/CLIENT TO ENSURE THAT ONLY THE APPROVED BUILDING WARRANT DRAWINGS ARE USED FOR CONSTRUCTION



STREETSCAPE 1:50



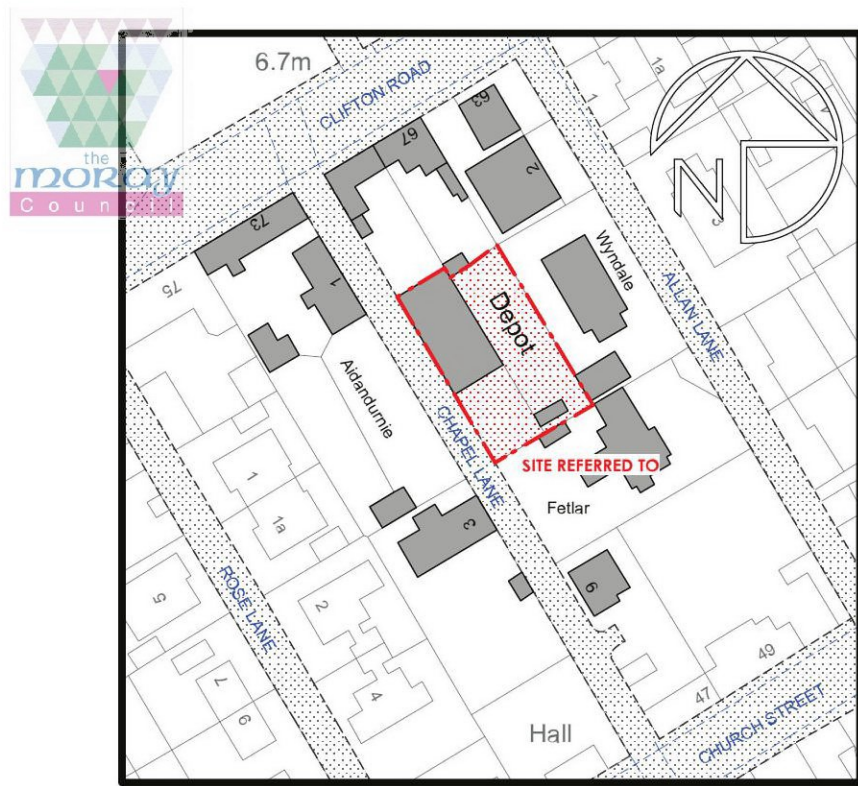
SITE PLAN 1:200

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

REFUSED

07 February 2017

Development Management
Environmental Services
The Moray Council



LOCATION PLAN 1:1250

MORAY - HEAD OFFICE
51 Brendans, 67 South Guildry Street, Elgin, IV30 1QN
t 01343 540020

HIGHLANDS
4 Bridge Street, Nairn, Highlands, IV12 4EJ
t 01467 300230

DEVON
3 Canada Cottages, Broadway, Woodbury, Devon, EX5 1NX
t 01392 345566
m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

Mr Mansfield

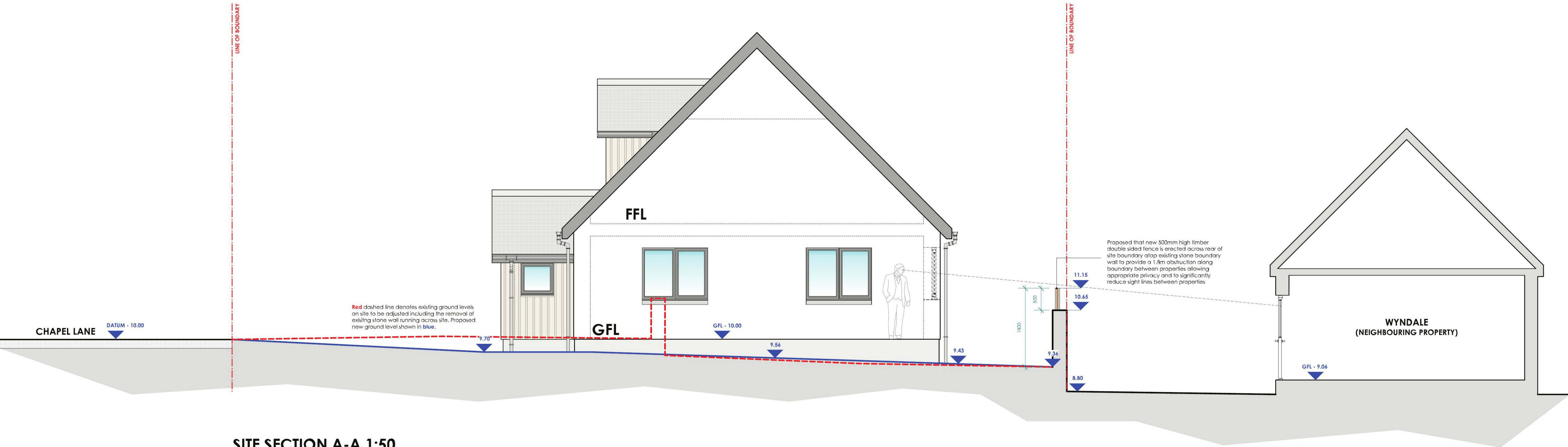
DEVELOPMENT SITE AT CHAPEL LANE, LOSSIEMOUTH

PLANNING PROPOSALS
SITE PLAN AND STREETSCAPE

Date:	Amendments:	Rev:
AUG'16	CLIENT AMENDS	A
NOV'16	RE-DESIGN - HEIGHTS REDUCED	B

Drawn By:	Date:	Checked By:	Date:
A. CARSWELL	JUL 2016	A. JAMES	13.12.16

160045.MANSFIELD.05PP B



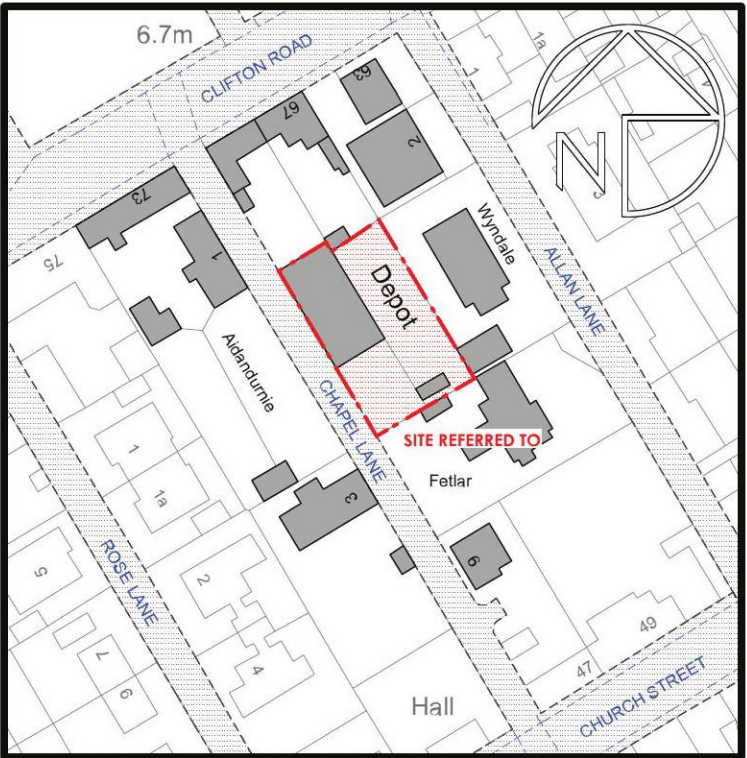
SITE SECTION A-A 1:50

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

REFUSED

07 February 2017

Development Management
Environmental Services
The Moray Council



LOCATION PLAN 1:1250

MORAY - HEAD OFFICE
51 Brendans, 69 South Guildry Street, Elgin, IV30 1QN
t 01343 540020

HIGHLANDS
4 Bridge Street, Nairn, Highlands, IV12 4EJ
t 01467 300230

DEVON
3 Canada Cottages, Broadway, Woodbury, Devon, EX5 1NX
t 01392 345566

m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

Mr Mansfield

DEVELOPMENT SITE AT CHAPEL LANE, LOSSIEMOUTH

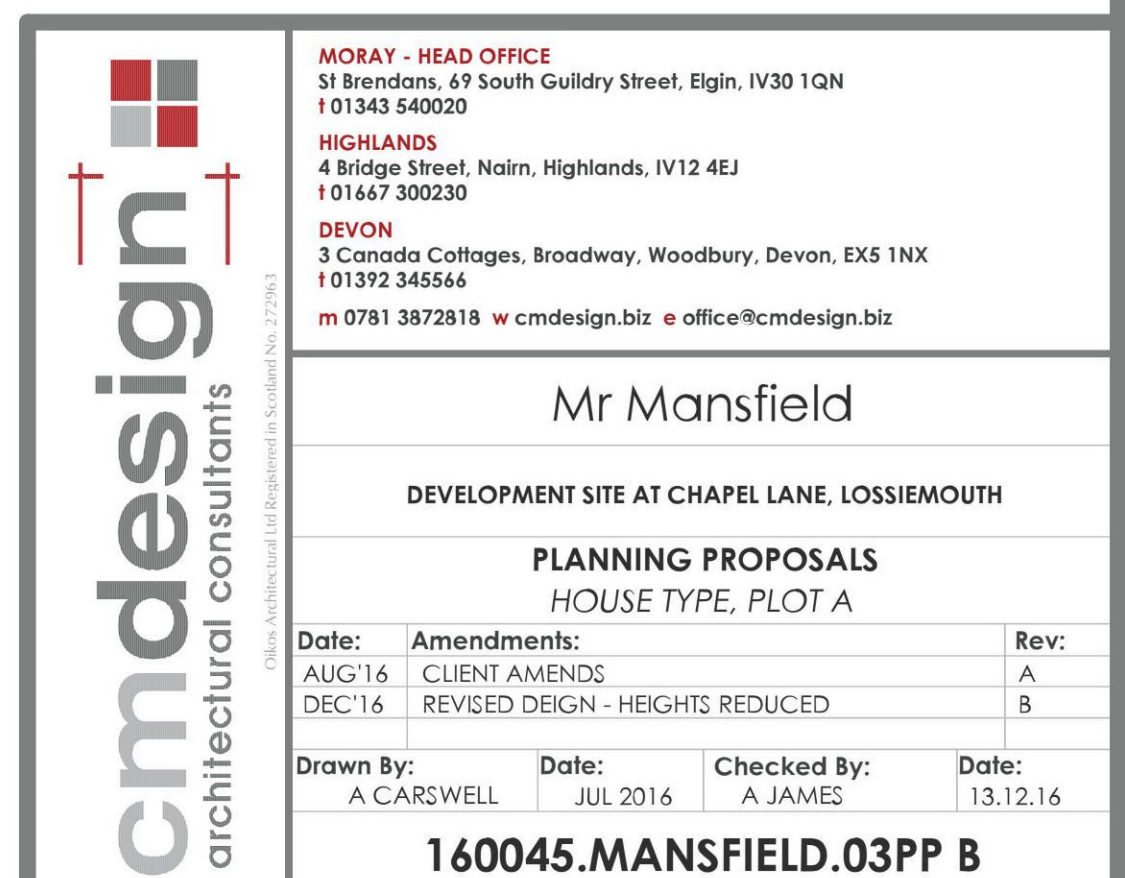
PLANNING PROPOSALS
SITE SECTION

Date:	Amendments:	Rev:
13.12.16	REVISED DEIGN - HEIGHTS REDUCED	A

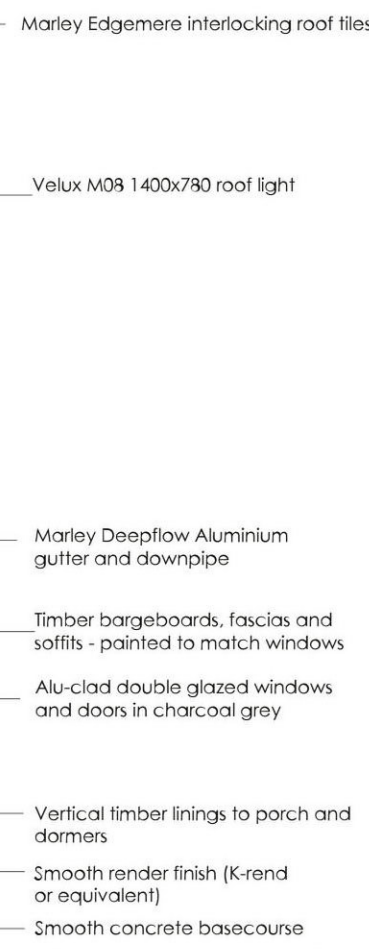
Drawn By:	Date:	Checked By:	Date:
A CARSWELL	SEPT 2016	A JAMES	13.12.16

160045.MANSFIELD.06PP A

CONTRACTOR/CLIENT TO ENSURE THAT ONLY THE APPROVED BUILDING WARRANT DRAWINGS ARE USED FOR CONSTRUCTION



CONTRACTOR/CLIENT TO ENSURE THAT ONLY THE APPROVED BUILDING WARRANT DRAWINGS ARE USED FOR CONSTRUCTION



FRONT ELEVATION
(Scale 1:50)

