



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100605113-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

Proposed Erection of Garage/Storage Shed and Partial Change of Use from Farm Land to Garden Ground

Has the work already been started and/ or completed? \*

No  Yes - Started  Yes – Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details


Company/Organisation:	Machin Dunn + MacFarlane		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	
Last Name: *	MacFarlane	Building Number:	11
Telephone Number: *	01259 212962	Address 1 (Street): *	Bank Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Alloa
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 1HP
Email Address: *	neil@mdm-architecture.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	The Forecourt
First Name: *	John	Building Number:	
Last Name: *	Marshall	Address 1 (Street): *	Cummingston
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Elgin
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5XY
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Moray Council

Full postal address of the site (including postcode where available):

Address 1:

THE FORECOURT

Address 2:

CUMMINGSTON

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 5XY

Please identify/describe the location of the site or sites

Northing

868851

Easting

312787

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

Yes  No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? \*

4

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? \*

4

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*      ≤ Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*      ≤ Yes  No

Is any of the land part of an agricultural holding? \*       Yes ≤ No

Do you have any agricultural tenants? \*      ≤ Yes  No

Are you able to identify and give appropriate notice to ALL the other owners? \*       Yes ≤ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

Date of Service of Notice: \*

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Neil MacFarlane

On behalf of: Mr John Marshall

Date: 31/10/2022

Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates?. \*  Yes  No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \*  Yes  No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.? \*  Yes  No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale.  Yes  No
- e) Have you provided a certificate of ownership? \*  Yes  No
- f) Have you provided the fee payable under the Fees Regulations? \*  Yes  No
- g) Have you provided any other plans as necessary? \*  Yes  No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

Existing and Proposed elevations.

Existing and proposed floor plans.

Cross sections.

Site layout plan/Block plans (including access).

Roof plan.

Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding.  Yes  No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*  Yes  No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

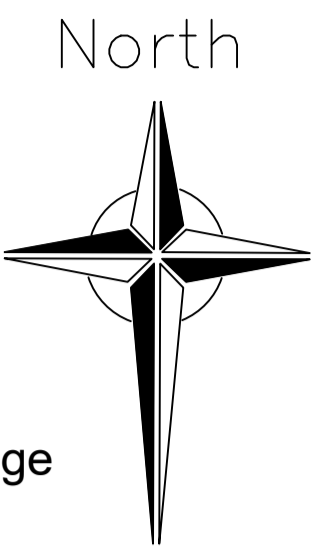
Declaration Name: Mr Neil MacFarlane

Declaration Date: 31/10/2022

## Payment Details

Telephone Payment Reference:

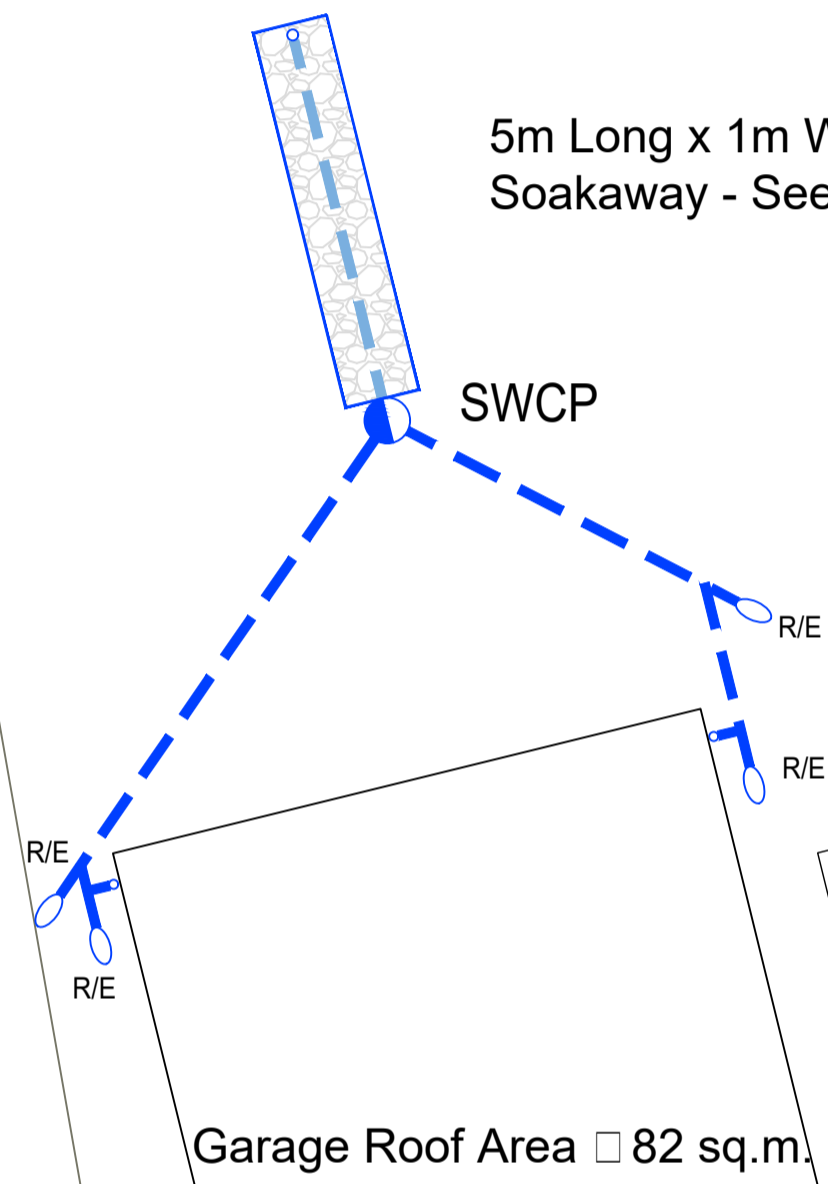
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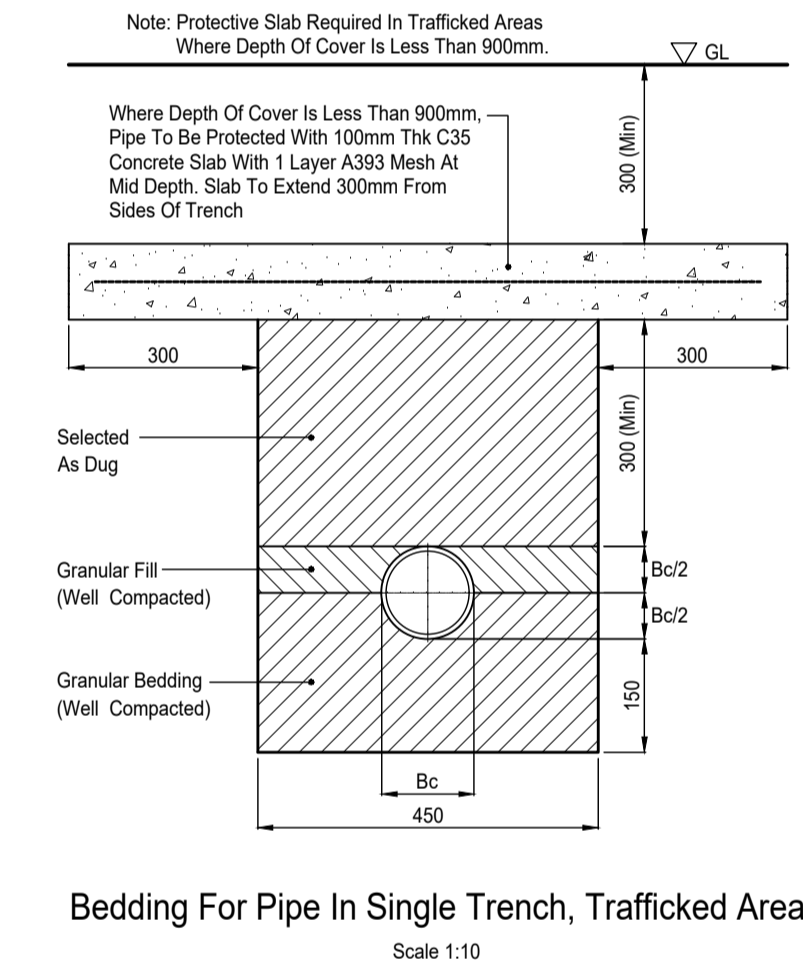
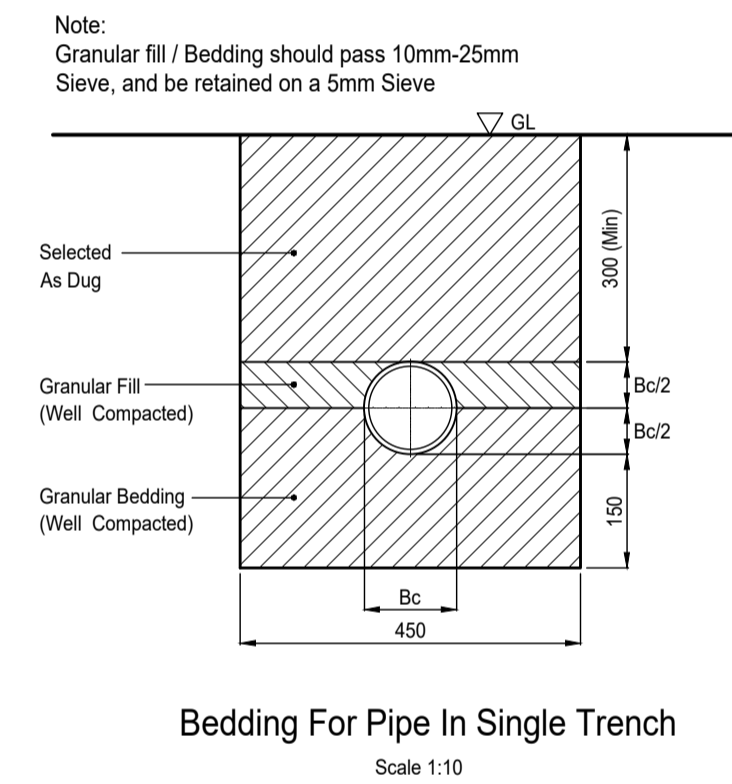
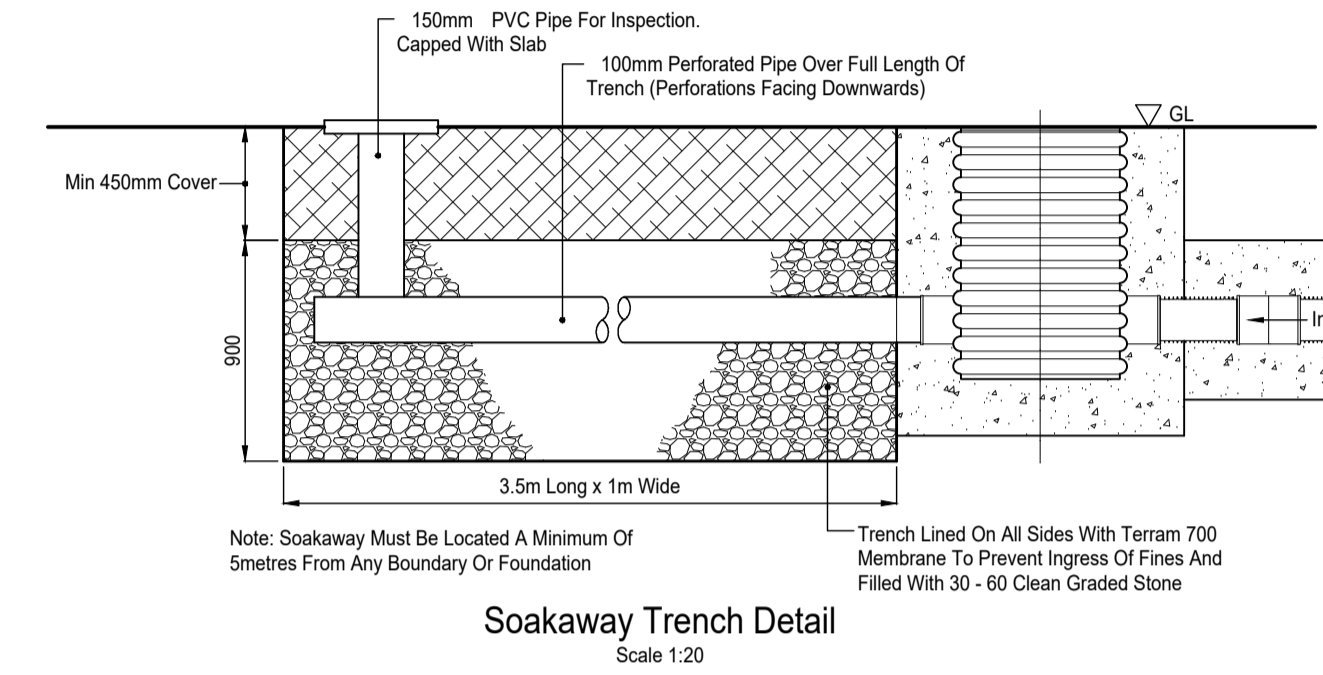
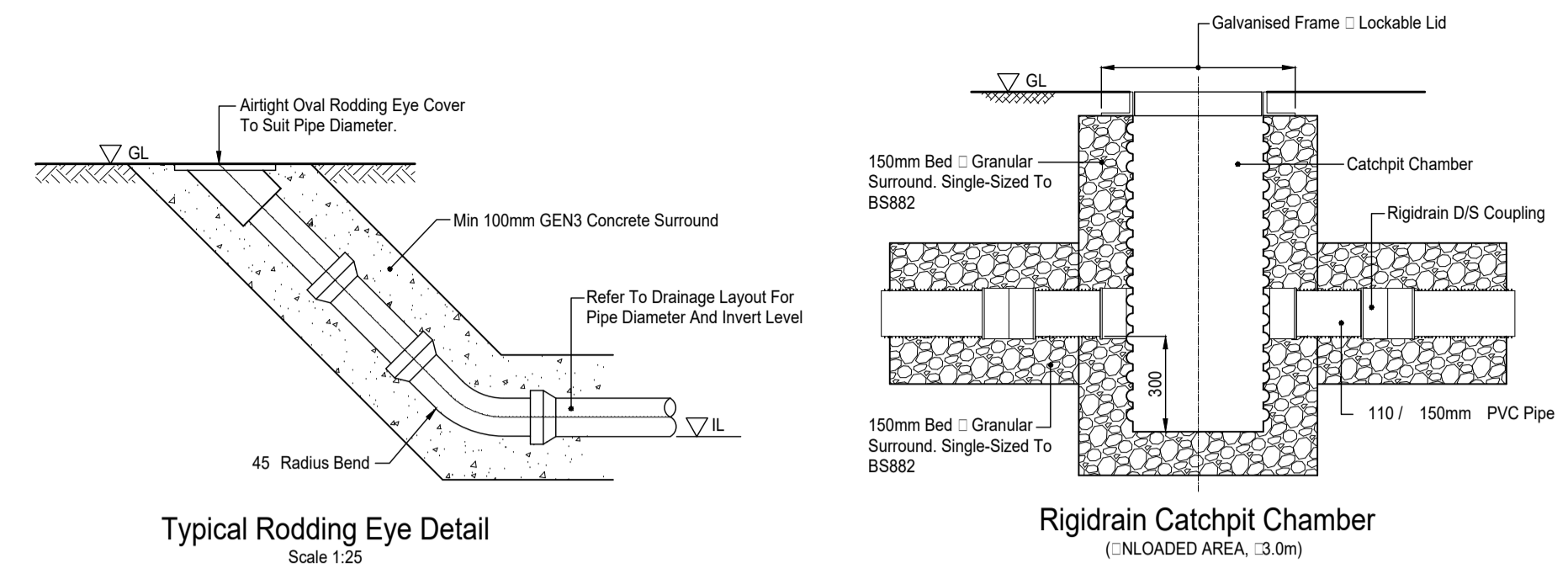
Note - Sub-soil Percolation Testing Carried Out By Others (Refer Cameron & Ross Report 26.10.16) In Accordance With BS6297:1983 Confirmed An Average Sub-soil Percolation Value (Vp) of 16.4 secs/mm

Note - Soakaway To Be Constructed At Least 5m From Boundaries & Buildings

5m Long x 1m Wide x 0.9m Deep Soakaway - See Seperate Detail



B9040



- Notes:
- Proposed Drainage Legend**
- R/E Denotes Surface Water Rodding Eye
  - SWCP Denotes Surface Water Catch Pit
  - Denotes 100mm PVC Storm Water Sewer Laid At 1.100
  - Denotes 100mm Perforated Carrier Pipe Within Filter Sub-base
  - Denotes Storm Water Deep Filter Sub-base
- Incourrage Drainage Notes**
1. All Levels Shown Must Be Confirmed On Site Prior To Commencing Work.
  2. The Contractor Should Evaluate Which Drainage Lines Require Concrete Protection, As A Result Of The Crown Of The Pipe Being 1.2m From The Finished Trafficked Level.
  3. The Contractor Must Ensure That The Location Of RWP's & SVP's Indicated On This Drawing Coincide With The Location Of The RWP's & SVP's On The Architects Current Building Layout Plan.
  4. Refer To Architects Internal Layout For All Internal POP & P/SVP Setting Out Locations.
  5. All Pipe To Pipe Connections Are To Be Made Crown Of Pipe To Crown Of Pipe unless Noted Otherwise.
  6. All Drainage To Be Installed In Accordance With The Manufacturers Recommendations And With Section 3 - Environment: Scottish Building Standards Agency - Technical Handbooks.
  7. All External Drainage To Be Constructed And Installed In Accordance With BS EN 752-3: 1997 (Amendment 2), BS EN 752-4: 1998 And BS EN 1610: 1998.
- The Contractor Must Check All Invert Levels On The Existing Manholes As Soon As They Takes Control Of The Site And Advise Engineer To Allow A Check Of The Drainage To Be Carried Out.

ANY VARIATION FROM THE DESIGN SHOWN ON THIS DRAWING MUST BE NOTIFIED TO THE ENGINEER & HIS APPROVAL MUST BE OBTAINED. ANY UNAUTHORISED VARIATION FROM THE DESIGN MAY INVALIDATE ANY CERTIFICATION. IF IN DOUBT CONTACT THE ENGINEER.

THE CONTRACTOR MUST CONTACT THE ENGINEER PRIOR TO COMMENCING ANY WORK TO DISCUSS AND ENSURE FULL UNDERSTANDING OF THE DESIGN INTENT.

Revision	Description	By	Date

Client  
Mr. J. Marshall

Architect  
Machin Dunn & MacFarlane Limited



Tel: 01786 649689 email: admin@drgcs.co.uk

Project  
Proposed Garage/Storage Shed At The Forecourt, Cummingsdown, Lossiemouth

Drawing  
Proposed SW Drainage Layout & Details

**DRAWING STATUS: FOR INFORMATION**

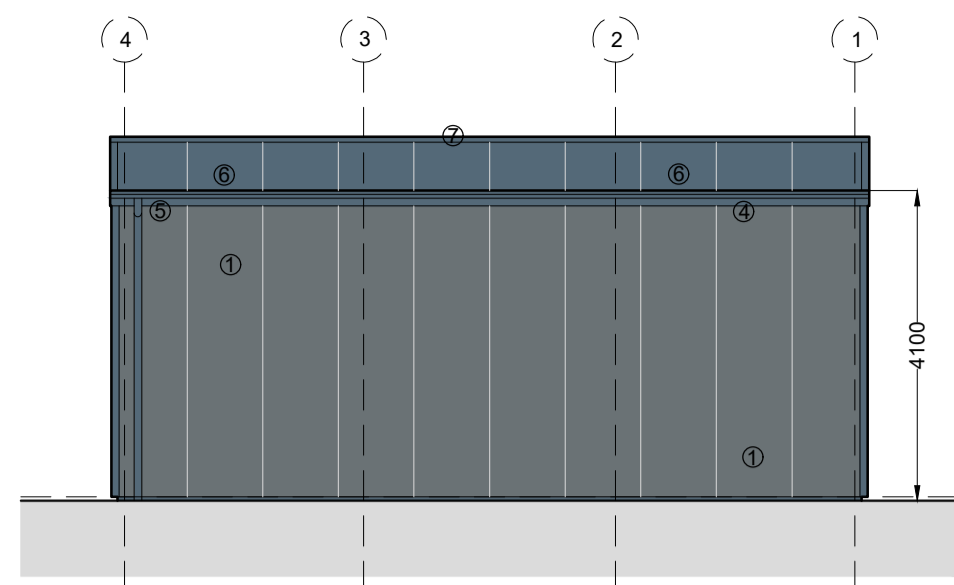
Engineer: KD Date: 13.12.22  
Technician: Date:

Project No. Drawing No. Revision  
22.5227 100

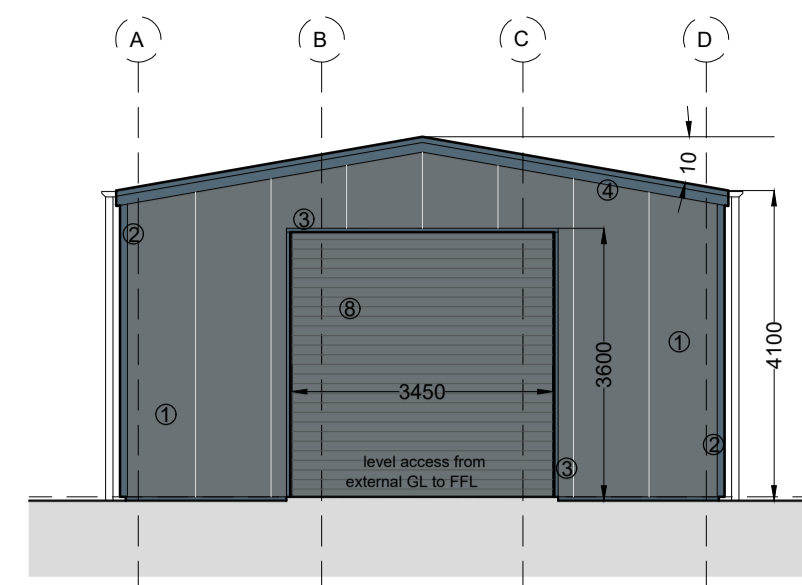
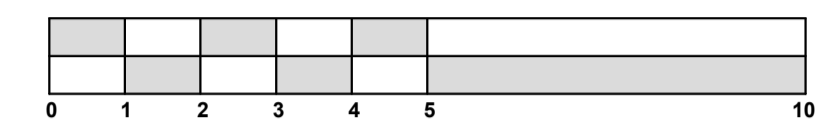
Drawing Scale: As Shown



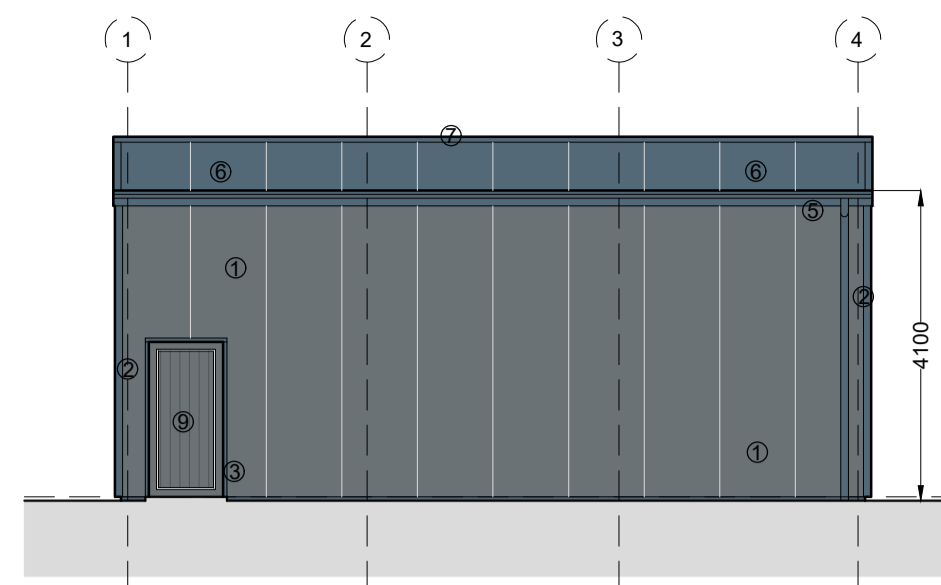




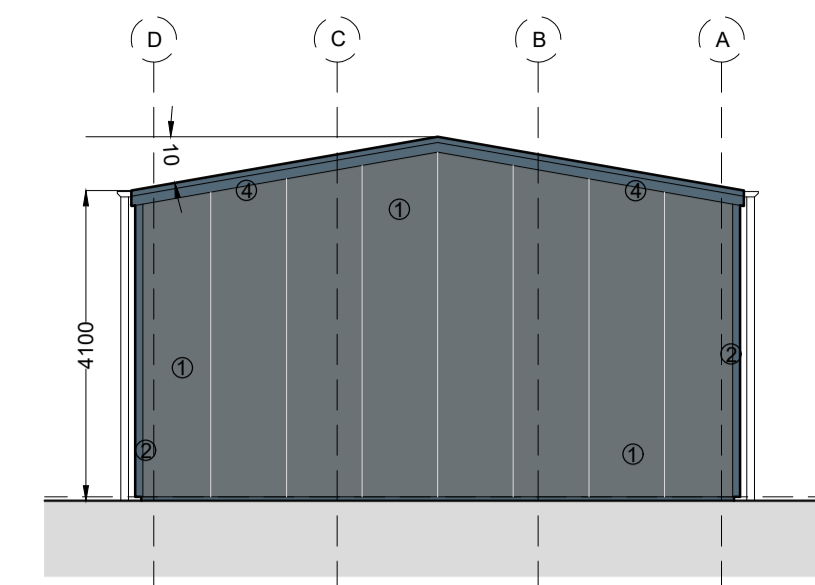
Proposed Side (West) Elevation 1:100



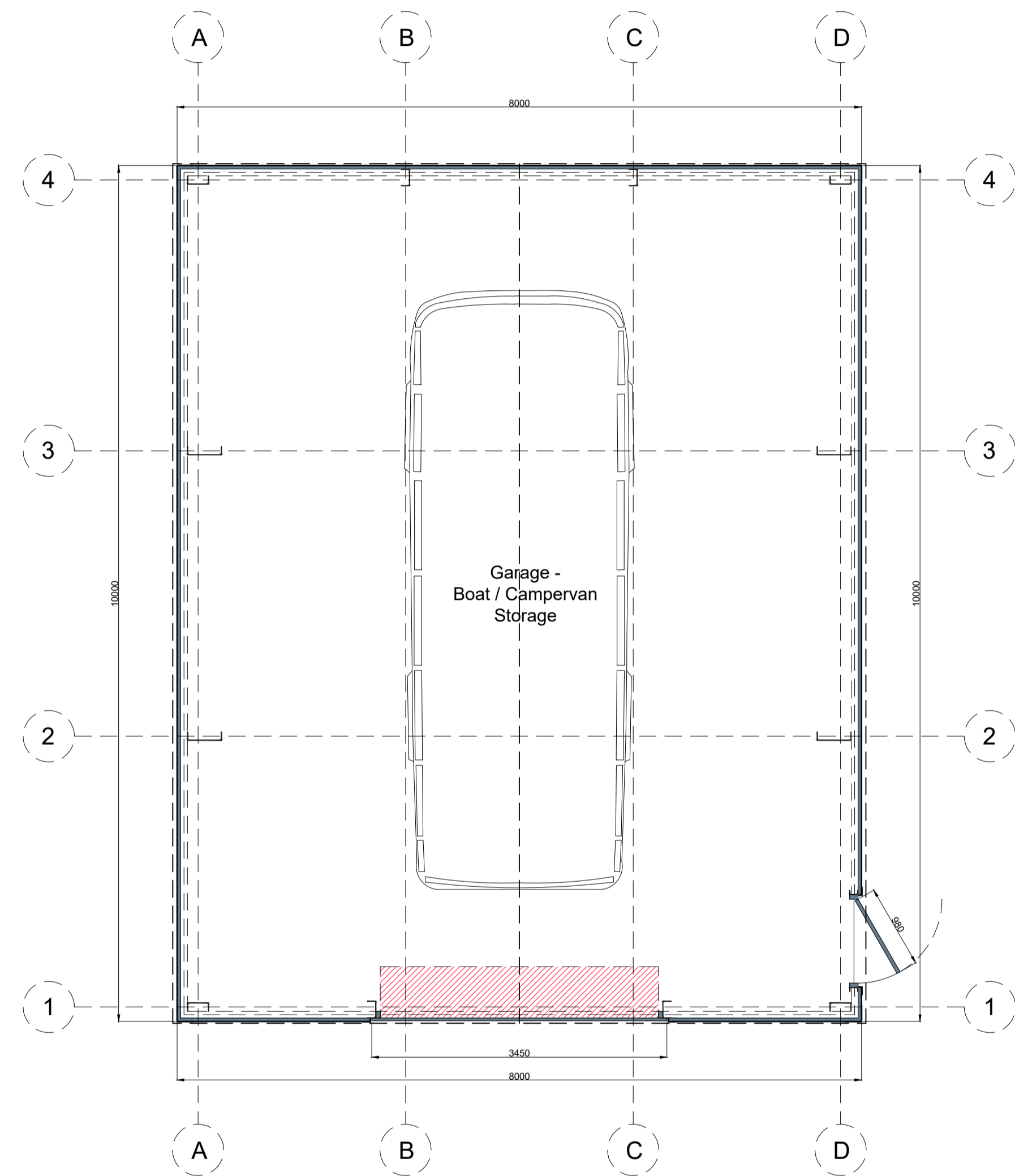
Proposed Front (South) Elevation 1:100



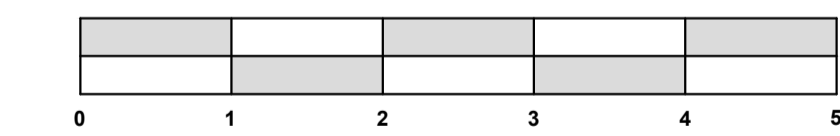
Proposed Side (East) Elevation 1:100



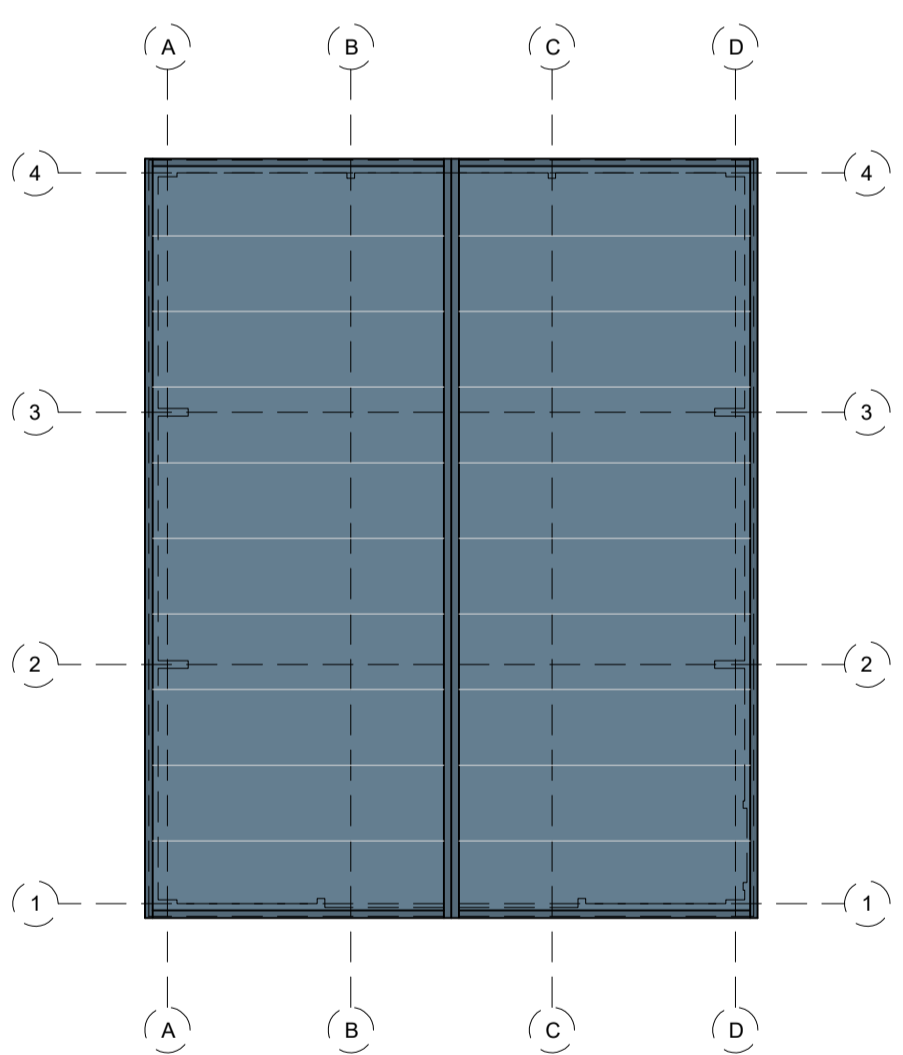
Proposed Rear (North) Elevation 1:100



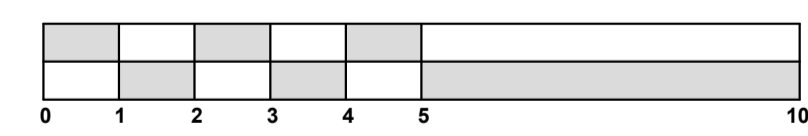
Proposed Garage Floor Plan 1:50



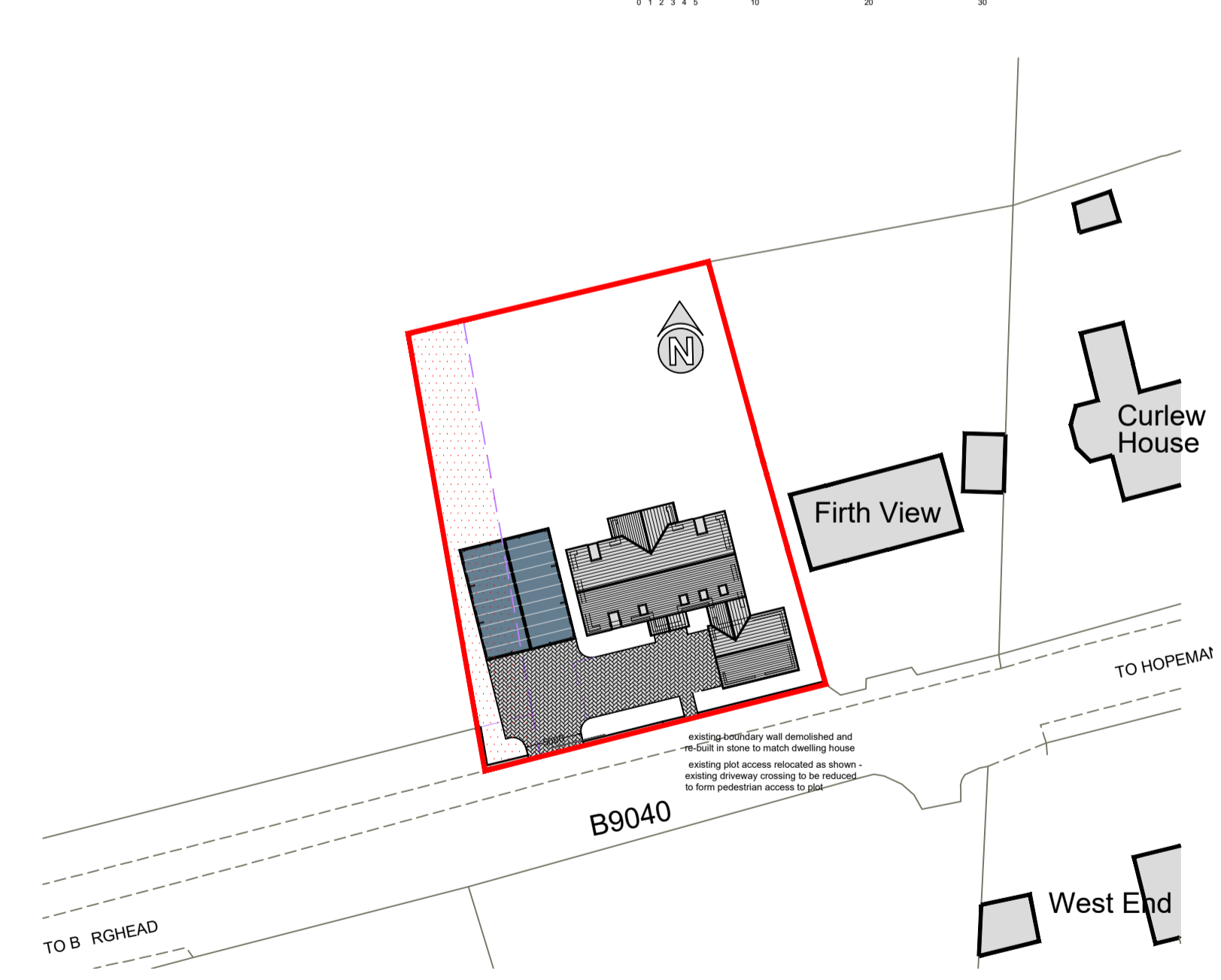
- Proposed Materials**
- Wall Cladding -**
- 40mm Composite LPC Posco Merlin Grey
  - Corner Flashings - Posco Slate Blue
  - Opening Flashings - Posco Slate Blue
  - Barge Colour - Posco Slate Blue
  - Gutters - Posco Slate Blue
- Roof Cladding -**
- 40mm Composite LPC Posco Slate Blue
  - Ridge Cap - Posco Slate Blue
- Openings -**
- Roller Door Posco Merlin Grey
  - Pass Door - Posco Merlin Grey



Proposed Roof Plan 1:100



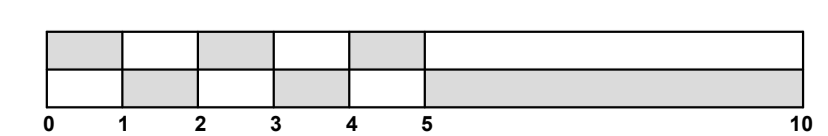
Existing Site Plan 1:500



Proposed Site Plan 1:500



Proposed Streetscape 1:100



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- All dimensions to be checked on site prior to ordering materials
- Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

STAT S  
**PLANNING APPLICATION**

**machin dunn + macfarlane**  
architecture and design

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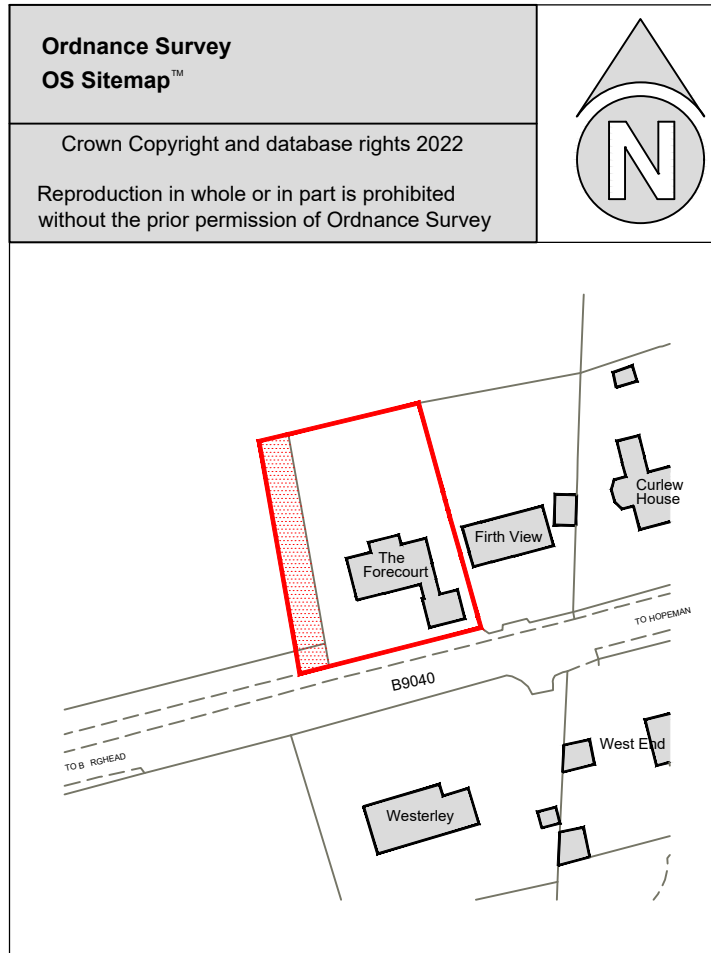
**PROJECT**  
Proposed Erection of Garage/Storage Shed and Partial Change of Use to Garden Ground at 'The Forecourt', Cummingstown, Lossiemouth

**DRAWING TITLE**  
Proposed Floor Plan, Elevations, Roof and Site Plans

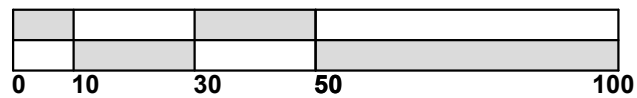
**CLIENT**  
Mr J. Marshall

SCALE As Noted @ A1      DATE 31st October 2022  
DRG NO. 2273/P/1.02





Location Plan 1:1250



### Notes

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2. All dimensions to be checked on site prior to ordering materials
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Revisions	Date

STAT S  
**PLANNING APPLICATION**

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**PROJECT**  
*Proposed Erection of Garage/Storage Shed and Partial Change of Use to Garden Ground at 'The Forecourt', Cummingstown, Lossiemouth*

**DRAWING TITLE**  
*Location Plan*

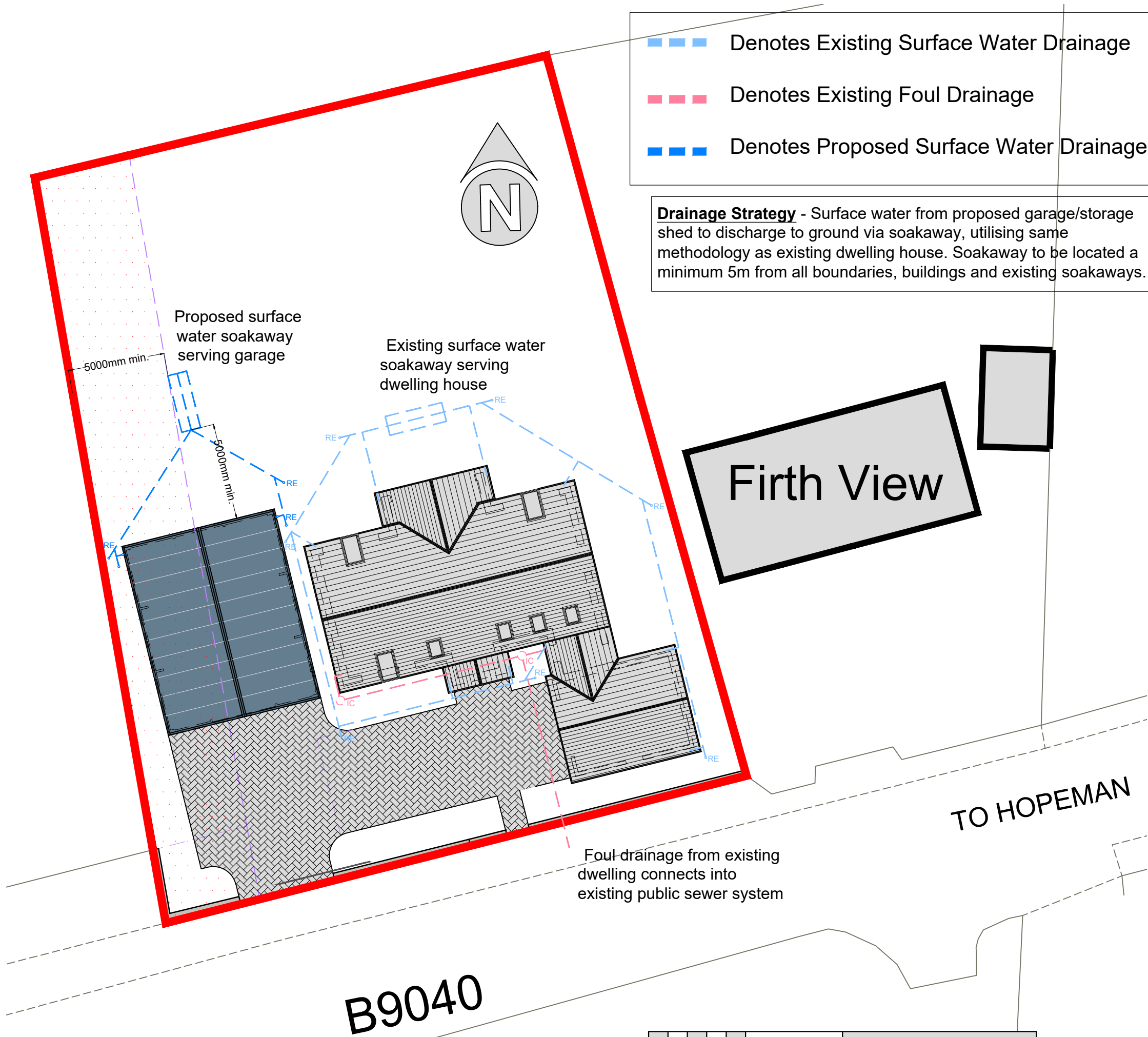
**CLIENT**  
*Mr J. Marshall*

SCALE <i>As Noted @ A4</i>	DATE <i>31st October 2022</i>
DRG NO. <i>2273/P/1.01</i>	



-  Denotes Existing Surface Water Drainage
-  Denotes Existing Foul Drainage
-  Denotes Proposed Surface Water Drainage

**Drainage Strategy** - Surface water from proposed garage/storage shed to discharge to ground via soakaway, utilising same methodology as existing dwelling house. Soakaway to be located a minimum 5m from all boundaries, buildings and existing soakaways.



**Notes**

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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

STAT S  
**PLANNING APPLICATION**

**machin dunn + macfarlane**  
architecture and design

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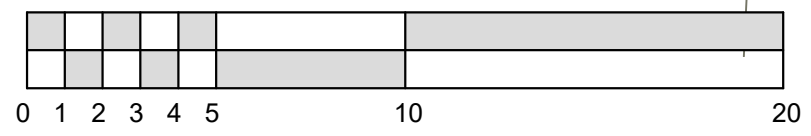
11 Bank Street + Alloa + Clackmannanshire + FK10 1HP

**PROJECT**  
Proposed Erection of Garage/Storage Shed and Partial Change of Use to Garden Ground at 'The Forecourt', Cummingstown, Lossiemouth

**DRAWING TITLE**  
Proposed Drainage Strategy and Layout

**CLIENT**  
Mr J. Marshall

SCALE As Noted @ A3      DATE 2nd November 2022  
DRG NO. 2273/P/1.03



Proposed Drainage Strategy Layout 1:200





PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| SUPPORTING STATEMENT

Document prepared by :

**machin dunn + macfarlane**  
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On Behalf of :

Mr John Marshall - Applicant

E : [jm@beatsons.co.uk](mailto:jm@beatsons.co.uk)



ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND | SUPPORTING STATEMENT  
AT 'THE FORECOURT', CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0 INTRODUCTION

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2.0 SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

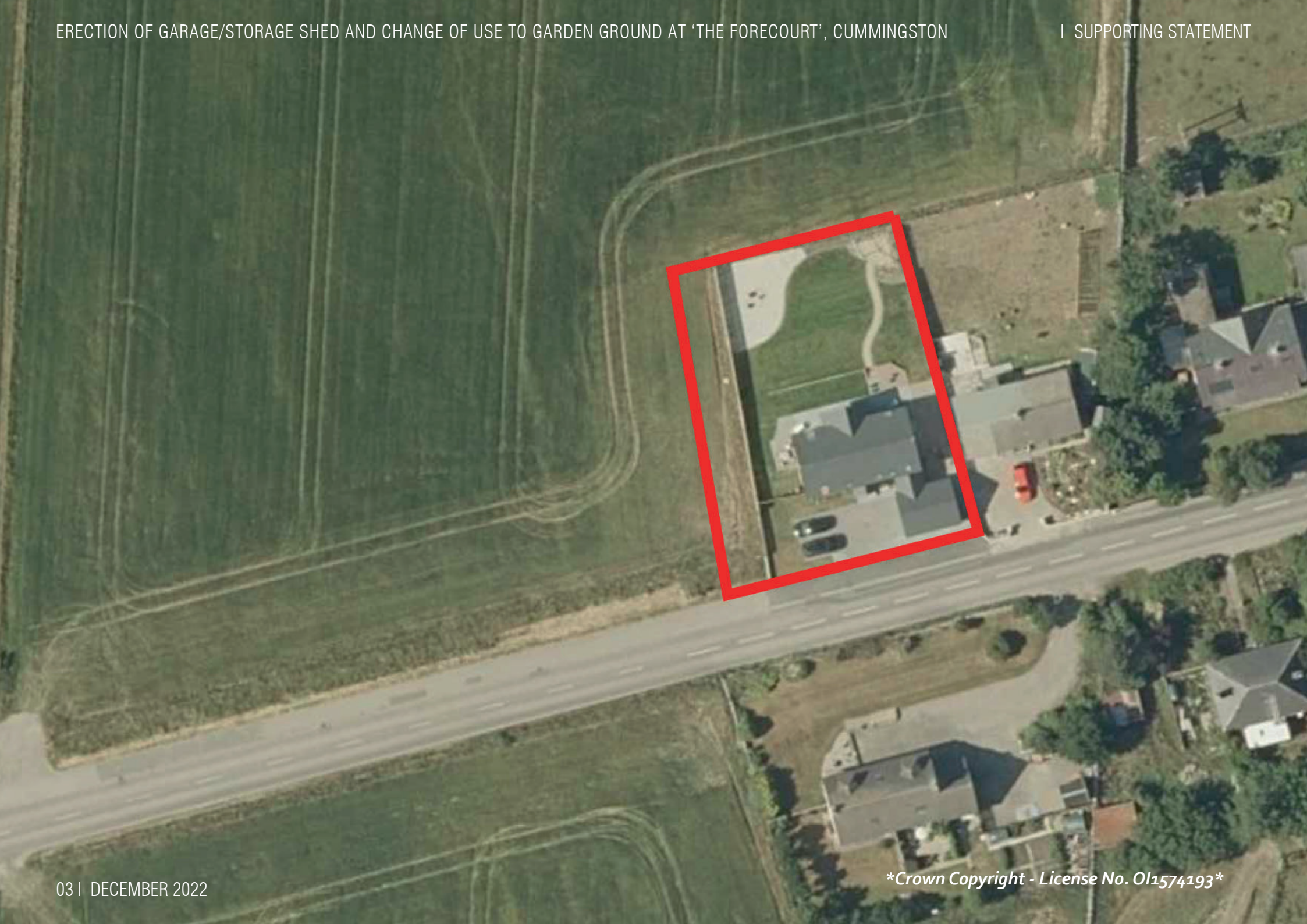
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3.0 DESIGN PROPOSALS

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4.0 CONCLUSION

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## 1.0 | INTRODUCTION

### 1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

## 2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

### 2.1 - Site Location

The site is located to the western extents of the village of Cummington, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummington settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummington 'Settlement Strategy/Placemaking Objectives' document it notes '*...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.*'

The existing settlement boundary of Cummington is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



*\*Image Copyright - Moray Local Development Plan\**

### 2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



*\*Western extents of Existing Settlement Boundary\**



*\*Land Subject to Planning Approval ref: 17/00830/APP\**

### Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- *'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- *'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'*
- *'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshanness...'*
- **REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.



*\*Land Subject to Current Application ref: 22/01594/APP\**

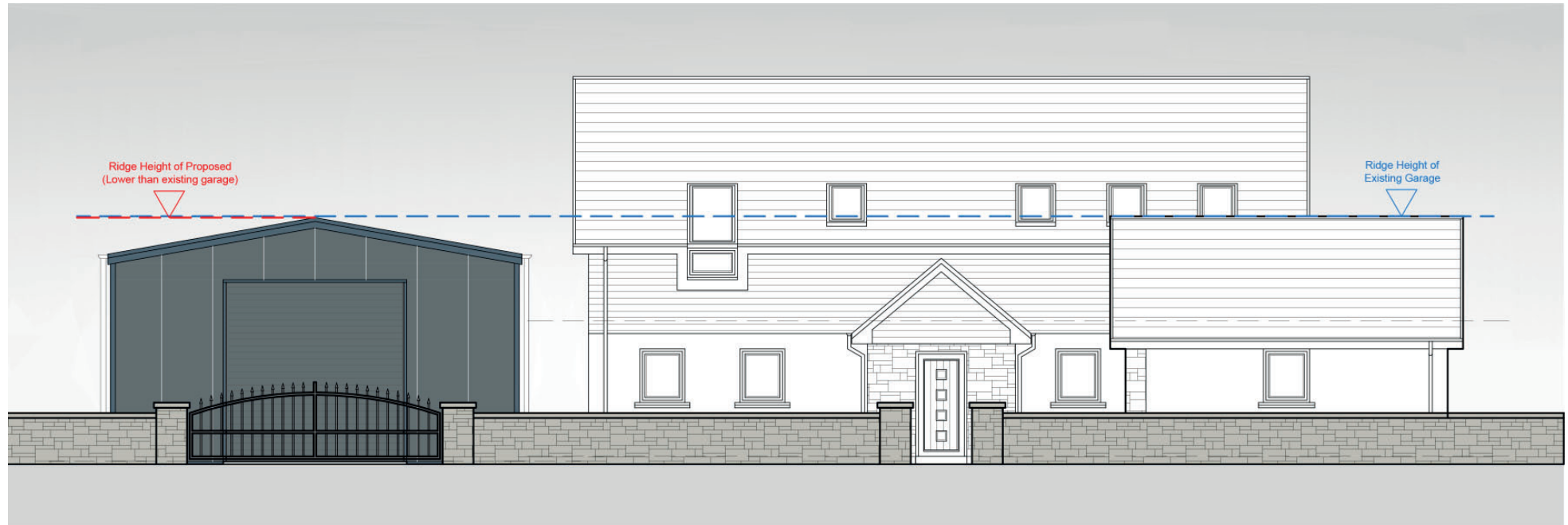


*\*'Notional' Settlement Boundary if Approved\**

### 2.3 - Current Application Relative to Settlement Boundary

The are obvious parralels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummington and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummington and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummington and Burghead.



## 3.0 | DESIGN PROPOSALS

### 3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majority of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

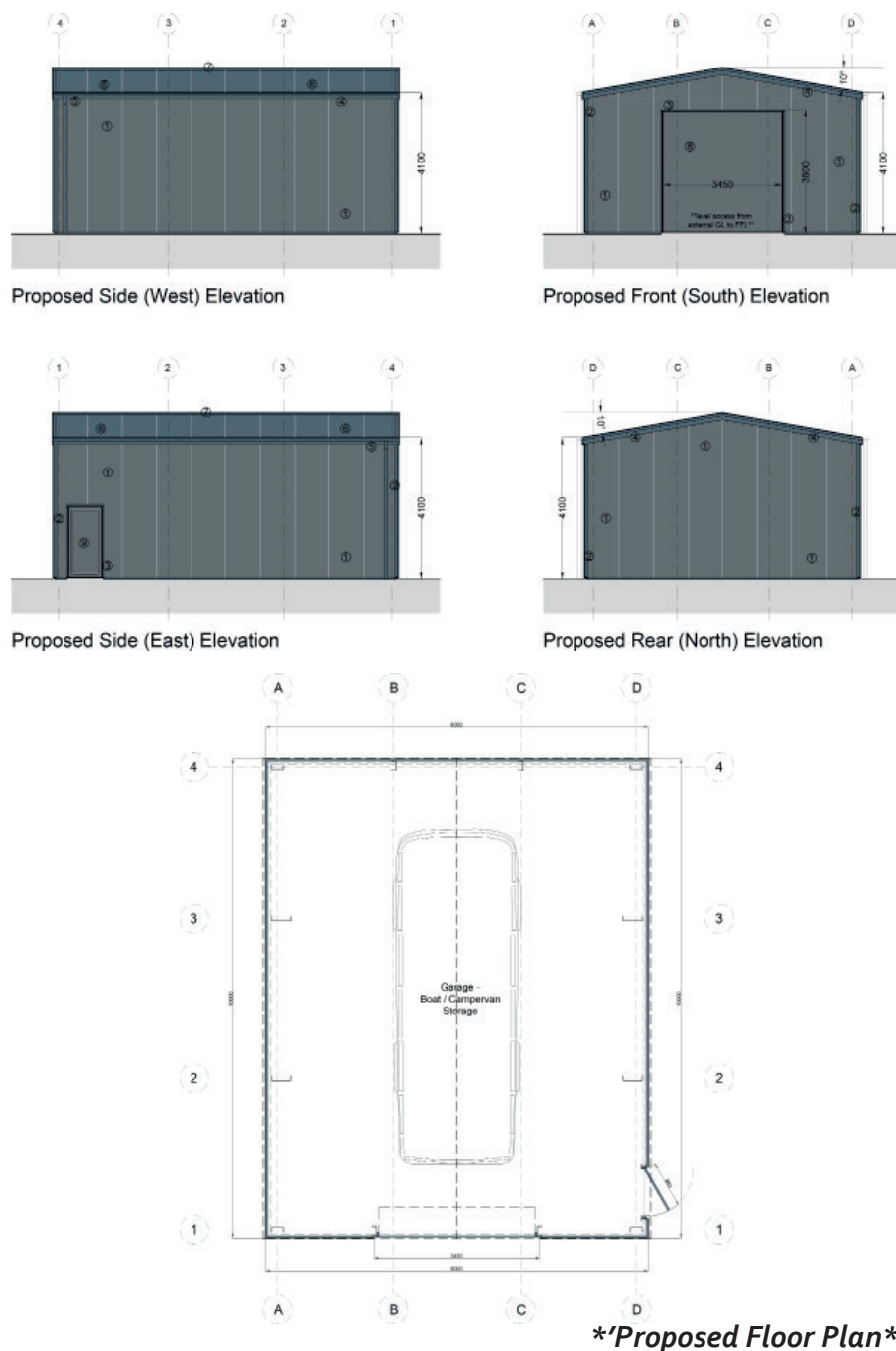
*\*Streetscape and Indication of Ridge Line Relative to Existing Garage\**

Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



### 3.2 - Summary of Consultation Responses

Of the two public representations received in relation to the project, the following common themes were noted:

- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

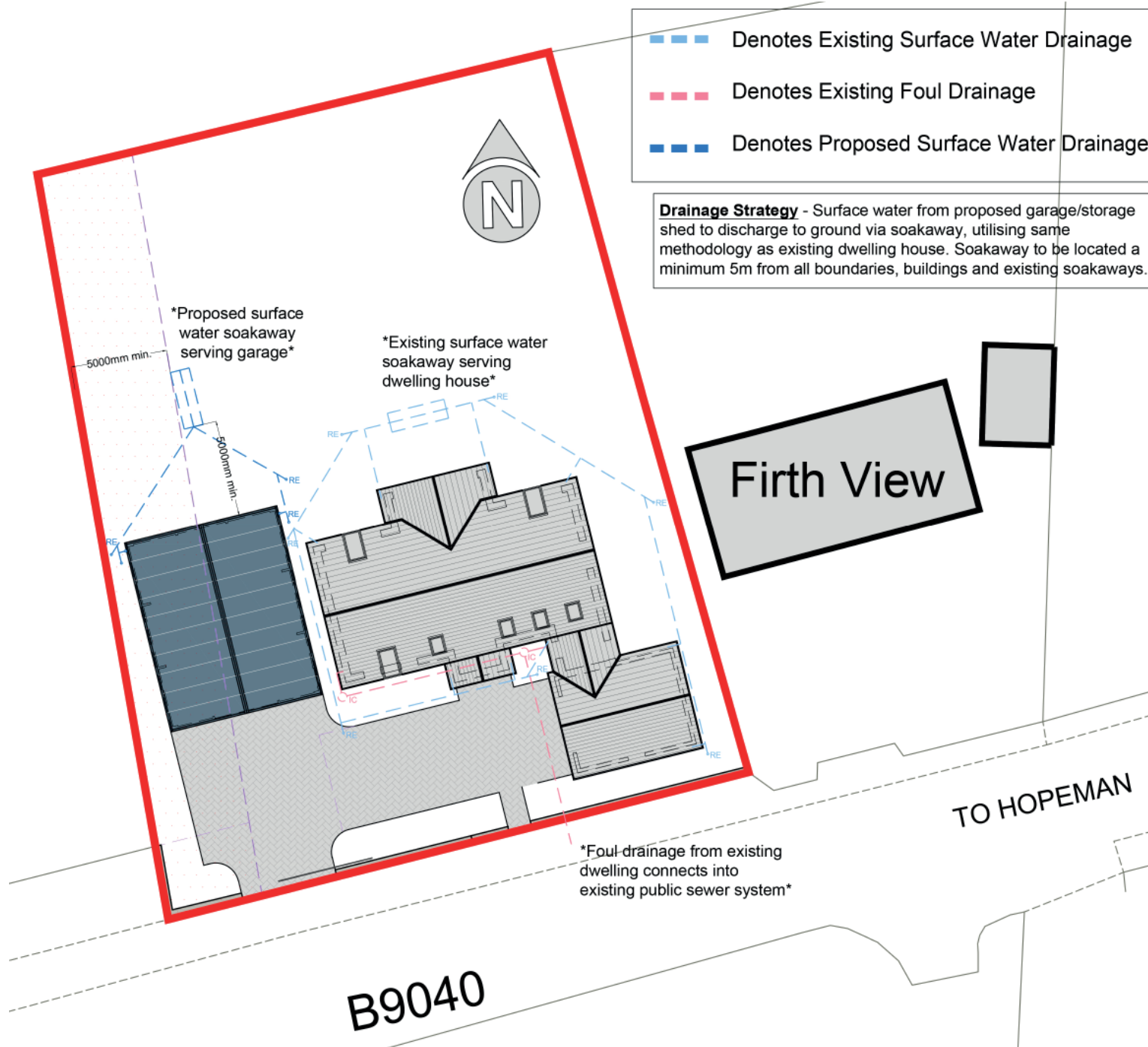
The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - **No objections subject to conditions**
- Environmental Health - **Approved unconditionally**
- Contaminated Land - **Approved unconditionally**
- Flood Risk Management - **Object to Application per below:**

*Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.*

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.





## 4.0 | CONCLUSION

### 4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.







PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| SUPPORTING STATEMENT

Document prepared by :

**machin dunn + macfarlane**  
architecture and design

T : 01259 212962  
E : enquiries@mdm-architecture.co.uk  
W : www.mdm-architecture.co.uk

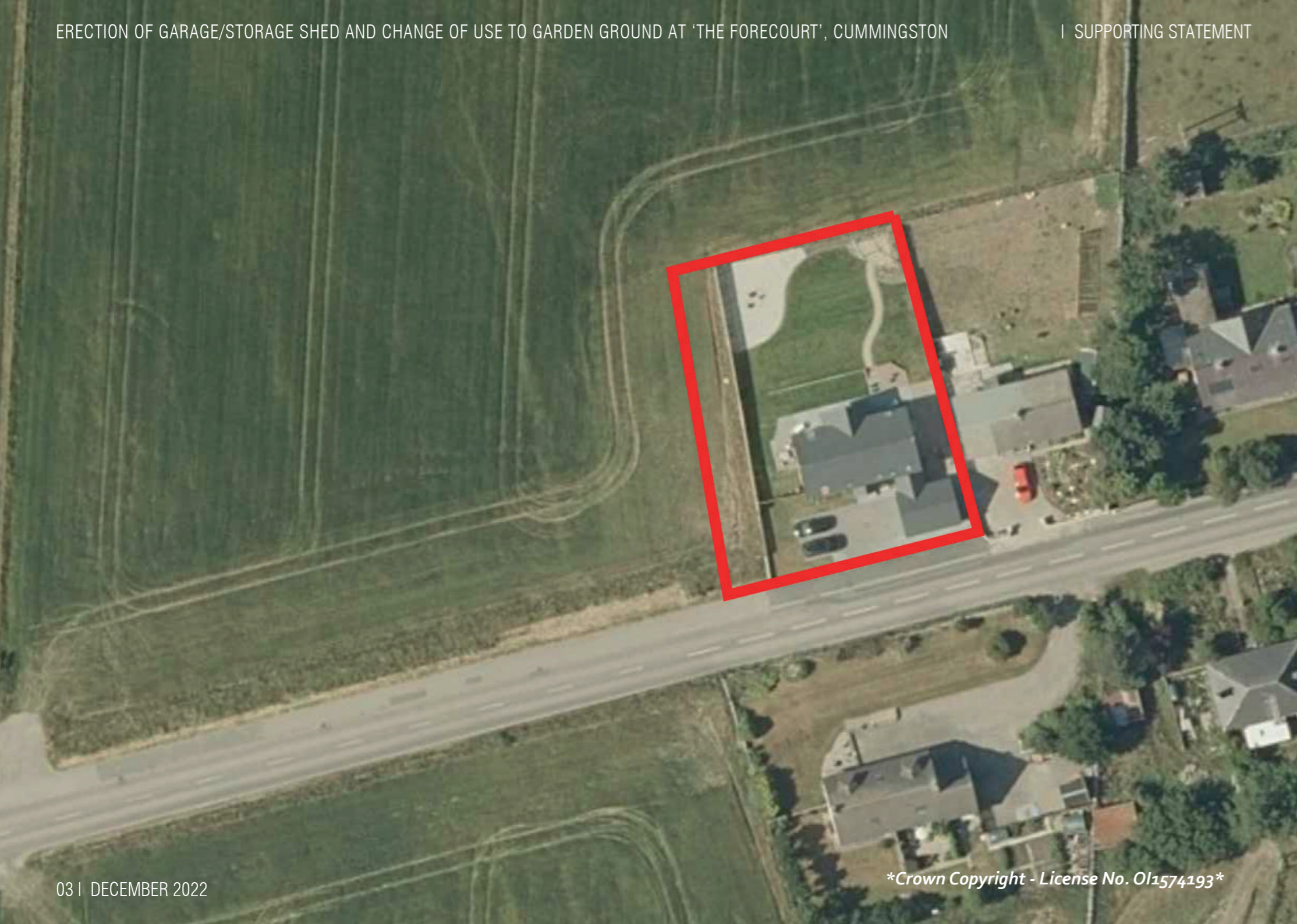
On Behalf of :

Mr John Marshall - Applicant

E : jm@beatsons.co.uk

ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND I SUPPORTING STATEMENT  
AT 'THE FORECOURT', CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY
3.0	DESIGN PROPOSALS
4.0	CONCLUSION



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## 1.0 | INTRODUCTION

### 1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummington, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

## 2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

### 2.1 - Site Location

The site is located to the western extents of the village of Cummington, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummington settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummington 'Settlement Strategy/Placemaking Objectives' document it notes '*...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.*'

The existing settlement boundary of Cummington is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.

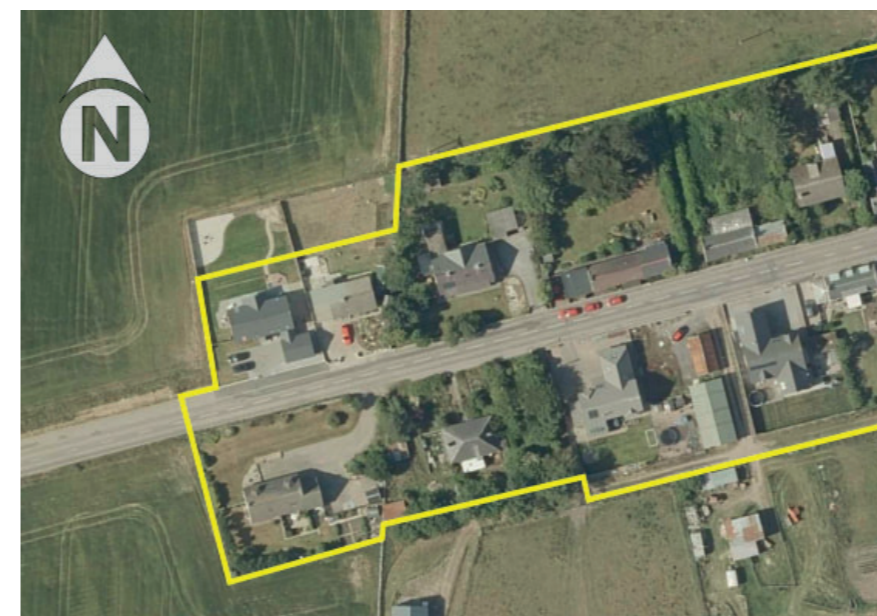


*\*Image Copyright - Moray Local Development Plan\**

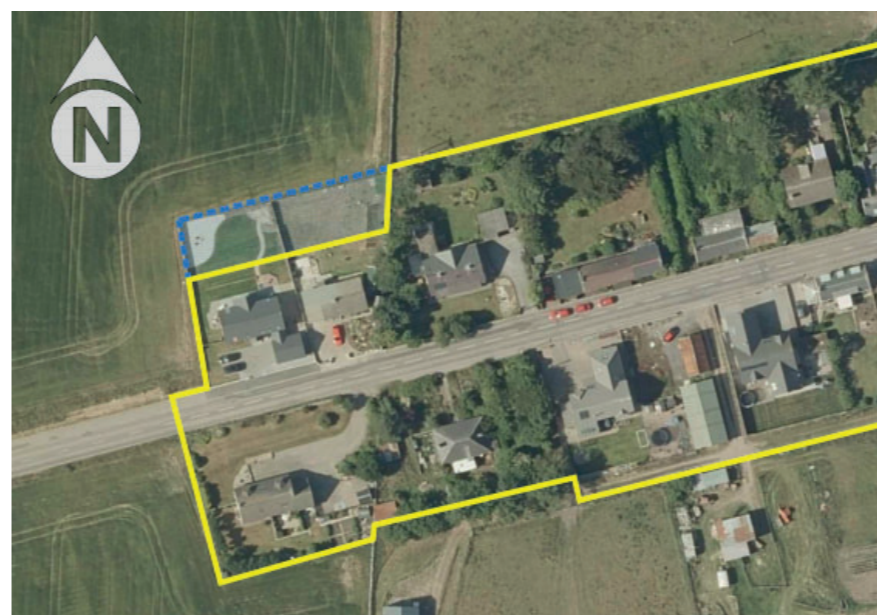
### 2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



*\*Western extents of Existing Settlement Boundary\**



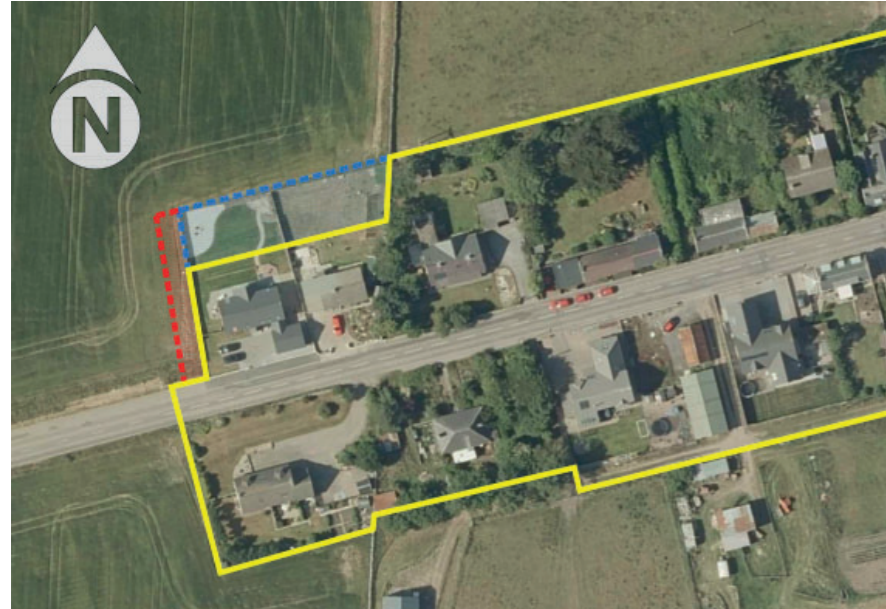
*\*Land Subject to Planning Approval ref: 17/00830/APP\**

Impact on Cummington settlement boundary and development within the Coastal Protection Zone (E8 and E9)

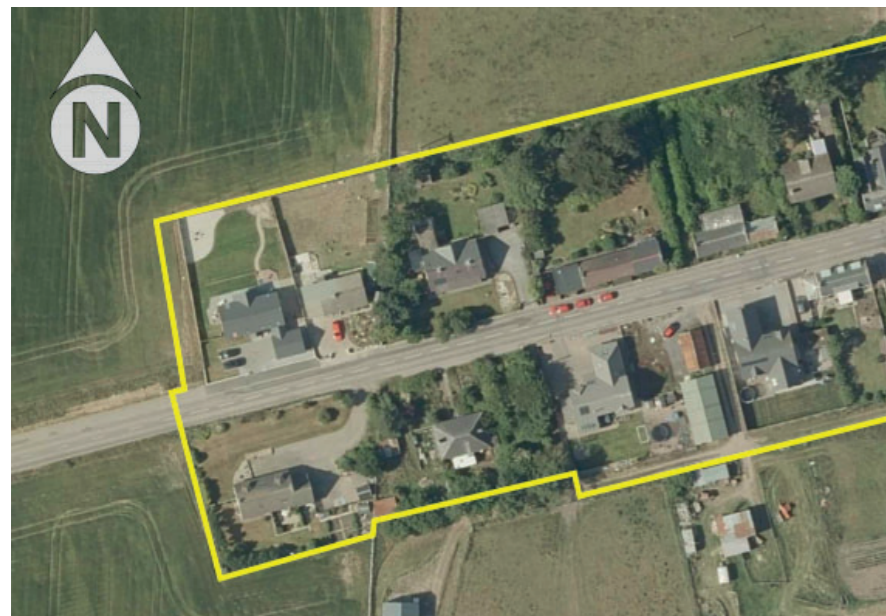
- 'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- 'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummington as defined and as development of a form which is not expressly permitted within the CPZ.'*
- 'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'*
- REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummington) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.





*\*Land Subject to Current Application ref: 22/01594/APP\**



*\*'Notional' Settlement Boundary if Approved\**

### 2.3 - Current Application Relative to Settlement Boundary

The are obvious paralels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



*\*Streetscape and Indication of Ridge Line Relative to Existing Garage\**

## 3.0 | DESIGN PROPOSALS

### 3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

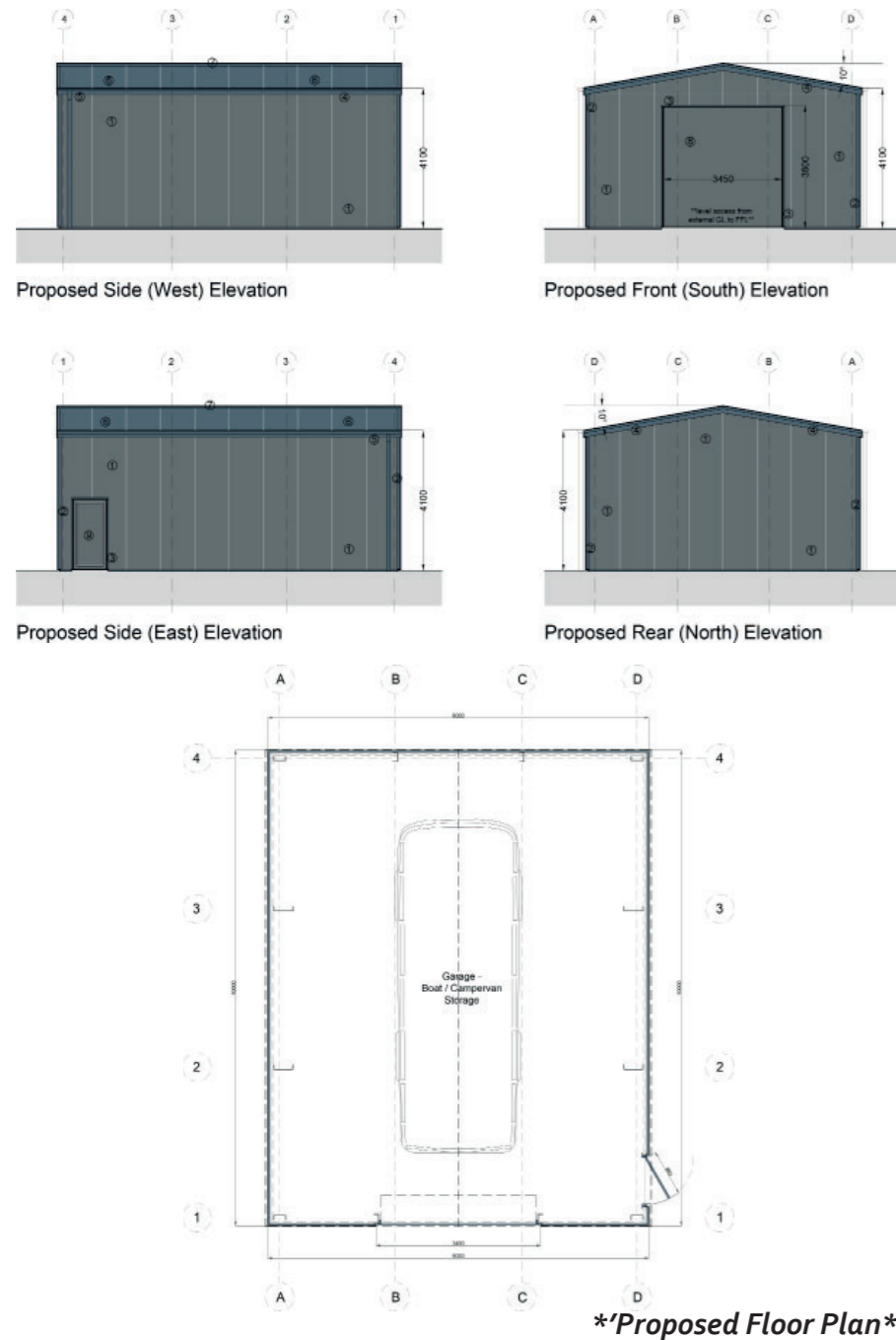
Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majority of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



3.2 - Summary of Consultation Responses

Of the two public representations received in relation to the project, the following common themes were noted:

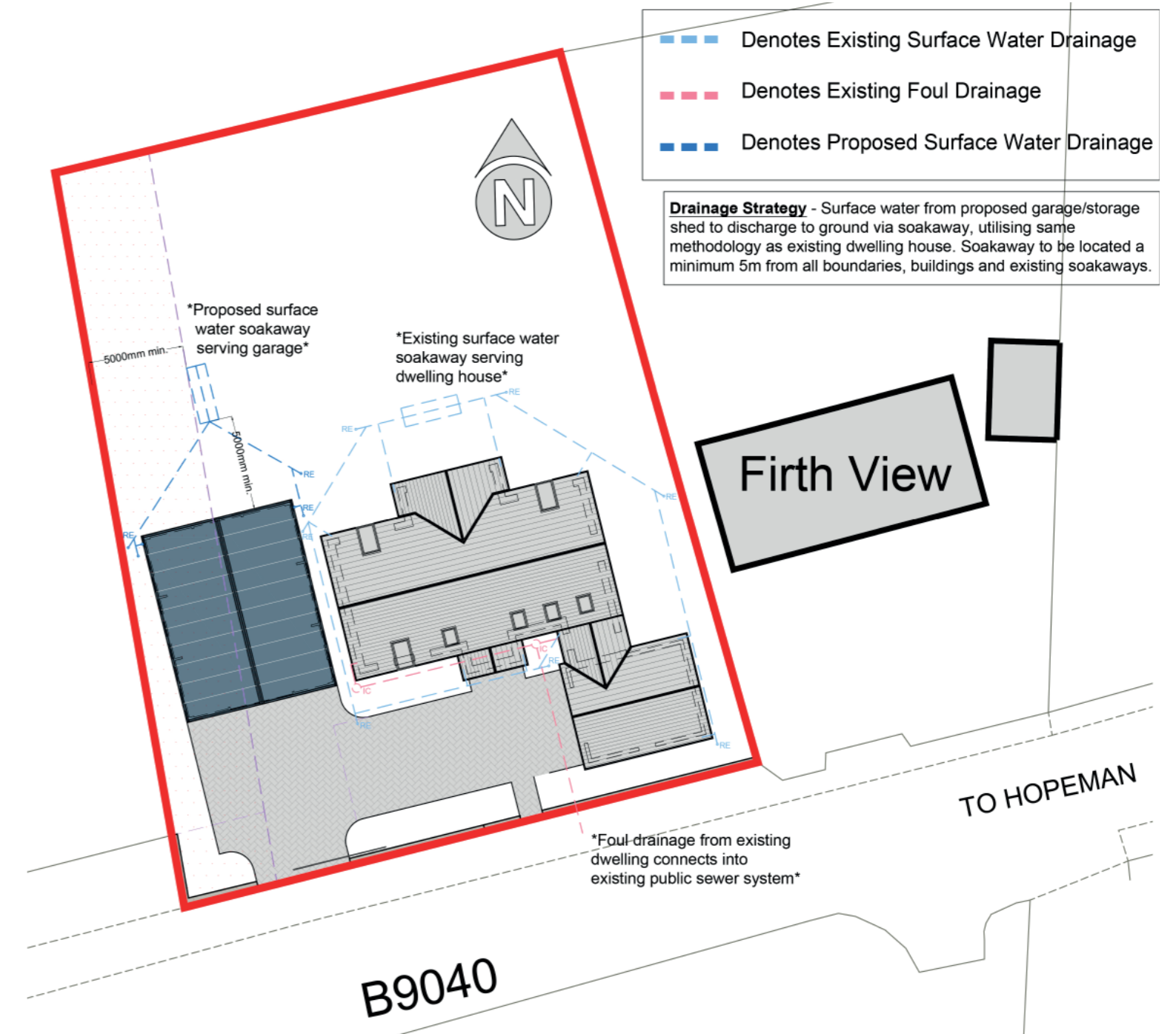
- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - **No objections subject to conditions**
- Environmental Health - **Approved unconditionally**
- Contaminated Land - **Approved unconditionally**
- Flood Risk Management - Object to Application per below:

*Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.*

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.



## 4.0 | CONCLUSION

### 4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.





# Soakaway Design 2



www.webcomsystems.co.uk

## Project Details

Project Title: The Forecourt, Cummingstown

Project Number: 5227

Designer: KD

## Global Variables

Impermeable Area :- 117 m<sup>2</sup>

Soil Infiltration Rate :- 2.03E-5 m/sec

Storm Duration :- 60 minutes

Rainfall :- 0.016 metres

Void Ratio (Trench Soakaway) :- 0.3

Volumetric Runoff Coeff :- 1.00

## Trench Soakaway

Length = 5 metres

Width = 0.94 metres

Depth = 0.9 metres

Half empty time = 4.28 hours

## Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

\* Ring soakaways are deemed to have failed if their Depth is greater than 4 metres.

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- <https://scottishepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>



# **Consultee Comments for Planning Application 22/01594/APP**

## **Application Summary**

Application Number: 22/01594/APP

Address: The Forecourt Cumingston Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## **Consultee Details**

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally by Adrian Muscutt (09.11.2022)





# **Consultee Comments for Planning Application 22/01594/APP**

## **Application Summary**

Application Number: 22/01594/APP

Address: The Forecourt Cumingston Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## **Consultee Details**

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: Not Available

On Behalf Of: Environmental Health C12

## **Comments**

Approved unconditionally by James Harris (22.11.2022)



**22/01594/APP MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

**From:** The Moray Council, Flood Risk Management  
**Planning Application Ref. No:**  
**22/01594/APP**

I have the following comments to make on the application:-

- |   | <b>Please<br/>x</b>                 |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below   | <input type="checkbox"/>            |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal            | <input checked="" type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/>            |
| (d) Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

**Reason(s) for objection**

**Conditions(s)**

**Further comments(s) to be passed to applicant**

**Further information required to consider the application**

Contact: Natalie Dunton

Date: 12/01/2023

email address: Natalie.dunton@moray.gov.uk

Phone No

**Consultee:** The Moray Council, Flood Risk Management



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	22nd November 2022
<b>Planning Authority Reference</b>	22/01594/APP
<b>Nature of Proposal (Description)</b>	Change of use to garden ground and erect a garage/storage shed at
<b>Site</b>	The Forecourt Cunnington Elgin Moray IV30 5XY
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133067787
<b>Proposal Location Easting</b>	312787
<b>Proposal Location Northing</b>	868851
<b>Area of application site (M<sup>2</sup>)</b>	189
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=RKNQ5GBGJFF00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=RKNQ5GBGJFF00</a>
<b>Previous Application</b>	17/00830/APP 16/00881/APP
<b>Date of Consultation</b>	8th November 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr John Marshall
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	The Forecourt Cunnington Elgin Moray IV30 5XY
<b>Agent Name</b>	Machin Dunn + MacFarlane
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	11 Bank Street Alloa  FK10 1HP
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Sheila Bernard
<b>Case Officer Phone number</b>	
<b>Case Officer email address</b>	sheila.bernard@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

**NOTE:**

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

For full terms please visit [http://www.moray.gov.uk/moray\\_standard/page\\_121513.html](http://www.moray.gov.uk/moray_standard/page_121513.html)

For full Data Protection policy, information and rights please see [http://www.moray.gov.uk/moray\\_standard/page\\_119859.html](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto:info@moray.gov.uk) or 01343 562633 for more information.

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No: 22/01594/APP**

**Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummington Elgin Moray for Mr John Marshall**

I have the following comments to make on the application:-

**Please**

- |     |   |                                     |
|-----|---|-------------------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below   | <input type="checkbox"/>            |
| (b) | I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal            | <input type="checkbox"/>            |
| (c) | I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

*This proposal is for an extension to the existing site and erection of a new storage shed, including the relocation of the existing vehicular access. The proposal also includes works to the existing boundary wall fronting onto the public road. The following conditions would apply:*

#### **Condition(s)**

1. Prior to the completion or first occupation of the new garage/ storage shed whichever the sooner, the existing vehicular access shall be relocated to the location shown on submitted drawing "2273/ p/1.02". The width of the new vehicular access shall be 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Drop kerbs shall be provided across the access to the Moray Council specification. The existing vehicular access shall be reconfigured including the reinstatement to full height kerbs and provision of drop kerbs to the Moray Council specification to provide a pedestrian access only

Reason: To ensure acceptable infrastructure at the development access

2. Three existing car parking spaces shall be retained within the site throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

3. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access

4. A turning area shall be retained within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

5. New boundary walls/fences shall be set back to the rear of the existing footway.

Reason: To ensure acceptable development in the interests of road safety.

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.9m in height and fronting onto the B9040 Main Road shall be within 3.0m of the edge of the public carriageway

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

7. The opening path of any new access gate shall be fully contained within the site and not encroach onto the public footway.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

#### **Further comment(s) to be passed to applicant**

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer. A large utility chamber is located in close proximity to the new access (with dropped kerbs positioned to accommodate the chamber access). Note - the drop kerbs would require to be reinstated to full height kerbs where outwith the new access in the unlikely event of the chamber being relocated.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into their property.



The applicant shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

**Contact: AG**

**Date 11 November 2022**

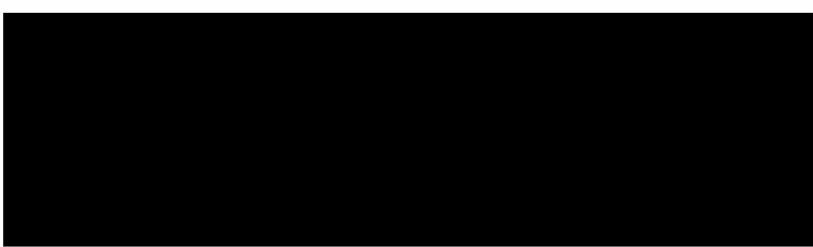
**email address: [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk)**

**Consultee: TRANSPORTATION**

<b>Return response to</b>	<b><a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a></b>
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/>. (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.





Sent: 13 November 2022 20:57  
To: Planning-Objections <objection.planning@moray.gov.uk>  
Subject: Application Number 22/01594/APP

**Warning. This email contains web links and originates from outside of the Moray Council network. You should only click on these links if you are certain that the email is genuine and the content is safe.**

FAO: the DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER.

1. I wish to object to this planning application – Change of use to garden ground and erect a garage /storage shed at the Forecourt, Cummington, Elgin.
2. Reason for objection – Contrary to the development Plan. The Moray Council’s Development Strategy/Placemaking Objectives for Cummington states:

“Restrict growth to prevent coalescence with Hopeman and Burghead. **Linear extension along the B9040 is not supported.**”

Whilst I have no objection to someone wishing to build a garage for their motorhome etc... I am concerned that Moray Council would allow building in areas contrary to the development plan.

3. Reference: MLDP 2020 Vol 2: Settlement Statements  
[http://www.moray.gov.uk/moray\\_standard/page\\_133541.html](http://www.moray.gov.uk/moray_standard/page_133541.html)  
<http://www.moray.gov.uk/downloads/file133235.pdf>

Yours sincerely,



# Comments for Planning Application 22/01594/APP

## Application Summary

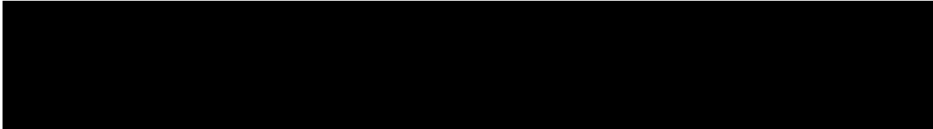
Application Number: 22/01594/APP

Address: The Forecourt Cummington Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## Customer Details



## Comment Details

Commenter Type: Member of the Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Height of proposed development
- Lack of landscaping
- Over-development of site

Comment: This is a large industrial/agricultural style of outbuilding on the road front and approach to the village.

It creates linear expansion of village outwith Local Plan, and is out of character with the existing structures along the main street of Cummington.

There is ample scope to position this building to rear of property, which would also lower the impact of building as the ground is lower.

## **REPORT OF HANDLING**

<b>Ref No:</b>	22/01594/APP	<b>Officer:</b>	Lisa Macdonald
<b>Proposal Description/ Address</b>	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray		
<b>Date:</b>	17.01.2023	<b>Typist Initials:</b>	LMC

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

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	11/11/22	No objection
Environmental Health Manager	22/11/22	No objection
Transportation Manager	11/11/22	No objection subject to conditions to ensure that the relocated access is formed to an acceptable standard, adequate parking and turning is provided within the site, boundary treatments do not block visibility and the opening path of any new gate is contained within the site.
Moray Flood Risk Management	13/01/23	No objection following the submission of further information

<b>DEVELOPMENT PLAN POLICY</b>		
<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP4 Countryside Around Towns	N	
EP6 Settlement Boundaries	Y	See below
EP12 Management and Enhancement Water	N	
NPF4 policy 1		
NPF4 policy 2		
NPF4 policy 4		
NPF4 policy 9		

NPF4 policy 13		
NPF4 policy 14		
NPF4 policy 16		
NPF4 policy 22		

## 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 General Data Protection Regulations.

Summary and Assessment of main issues raised by representations

**Issue:** The development is a linear expansion beyond the village boundary as identified in the Local Plan and the Local Plan expressly states that linear extension along the B9040 is not supported.

**Comments (PO):** This concern is noted and forms part of the reason for refusal as detailed below.

**Issue:** The style of building is not in keeping with the rest of the village and is inappropriate at the entrance to the village.

**Comments (PO):** The building has been designed in a simple and functional style. It is a large structure but the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.

**Issue:** There is space at the rear of the house to accommodate such a development.

**Comments (PO):** The application must be assessed as presented. The agent highlights in the supporting statement that the possibility of moving the building was discussed during the course of the application but this is not acceptable to the applicant as it would take up a large portion of the existing garden.

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

Following consideration of the revised draft National Planning Framework 4 (NPF4) which was approved by Parliament on 11 January 2023, NPF4 is now a material consideration and will be given significant weight in the consideration of planning applications on a case by case basis. NPF4 is due to be adopted on 13 February 2023.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moral Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

### The Proposal

This application seeks permission for change of use of a 5m wide strip of farm land to garden ground

in order to site a domestic garage/storage building. Half the proposed building will be sited on the land that is the subject of the change of use while the rest is within the existing garden ground of the house.

### **The Site**

The building is to be sited to the west of the existing house which fronts the main road (B9040) through Cummington. The house is the westernmost house in Cummington on the north side of the road. There is an existing garage in the eastern part of the site which sits between the house and the road. The settlement boundary of Cummington as identified in the Moray LDP follows the current boundary of the house. The land to the west which the application seeks to incorporate into the garden ground of the subject property is currently farm land. At present there is a clear boundary between the farmland and garden which is currently delineated by a fence and wall. The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

### **Siting (EP6 & Cummington Settlement Text)**

Policy EP6 states that proposals immediately outwith the boundaries of settlements will not be acceptable unless part of a LONG designation. The Settlement text for Cummington goes beyond this stating explicitly that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that linear extension along the B9040 is not supported. The current proposal seeks to incorporate a 5m wide strip of farm land into an existing garden in order to site the building proposed. This would be a linear extension along the B9040 and encroachment onto land immediately outwith the settlement boundary. The proposed expansion of the settlement to the west by 5m is relatively small scale but incremental increases of this kind have the potential to gradually erode the character of a settlement. At present the western boundary of the village is clearly defined and well delineated. The expansion of the existing garden to site the proposed building would be an extension of the build area of Cummington that does not respect the established pattern of development and erodes the distinction between Cummington and Burghead which is to the west. The proposal is clearly at odds with the stated aims of the settlement text for Cummington which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. The siting of this development is contrary to policy and it is therefore refused.

### **Design, Materials and Impact on the Special Landscape Area (SLA) (DP1 & EP3)**

Policy EP3 requires development within defined settlements in a SLA to conform to the requirements of Settlement Statements and all other policies of the LDP and reflect the traditional settlement character in relation to siting and design. In this case the proposal is a clear departure from the clearly stated aim in the settlement statement to prevent linear development along the B9040 and further coalescence with Burghead to the west. This application would be a breach of the established boundaries of the village and result in additional built development along the roadside. A building of the scale proposed would be prominent in this location on the very edge of the settlement. The development does not reflect the traditional settlement pattern and as such is contrary to policy EP3.

Policy DP1 (i) (a) requires development to be of a scale that is appropriate to the character of the area and as noted above policy EP3 requires development within defined settlements to reflect the character of that settlement. The proposed building is large measuring 8m x 10m and 5 m to the ridge. It is noted that it would be lower than the existing house and in line with the existing garage. It has been designed in a simple style with a symmetrically pitched roof and a large roller door on the front (south) elevation. The proposed materials are grey metal cladding on the walls and slate blue metal sheeting on the roof. The design is typical of many outbuildings found in rural areas albeit large in a domestic setting. While the design and materials are of a type that could be accommodated in a less sensitive location a building of this size would be prominent in this location on the very edge of the village breaching the settlement boundary. Furthermore it would be at odds with the aims of the settlement statement which seeks to prevent further linear development along the B9040 and Policies DP1 and EP3 which requires development to conform with traditional

settlement character in terms of siting and design. The proposal is contrary to policy DP1 (i) (a) and policy EP3.

### **Precedent**

It is noted that the Supporting Statement highlights the planning history of this site and suggests that this would set a precedent for the current proposal. The statement (p.5) states that part of the existing curtilage is technically outwith the settlement boundary and that the house was approved as an acceptable departure. This is not the case as the house was assessed (16/00881/APP refers) as being in accordance with policy as it was contained within the settlement and the mapping associated with the LDP shows the settlement boundary follows that of the existing garden ground. A further application (17/00830/APP) was approved to increase the boundaries of the property to the north to incorporate farm land into garden ground. This was a departure from policy as it extended the boundaries of the property outwith the settlement boundary and encroached on the Coastal Protection Zone which was in force at the time. In approving that proposal as an acceptable departure the case officer noted that the expansion was logical as it brought the northern boundary of the property in line with that of the neighbouring property to the east and did not prejudice the aims or objectives of the settlement boundary policy or coastal protection zone policy. The case officer also noted that no built development was proposed as part of that application. The circumstances which made the previous case an acceptable departure do not apply in this instance. Restricting the linear expansion of the village along the road is an express aim of the LDP and this proposal deviates from that as it would result in additional built development along the road on land that is not currently part of the village. While planning history is a material consideration each application must be considered on its own merits. In this case cognisance of the planning history does not alter the assessment that the proposal is contrary to policy and should be refused.

### **Access and Parking (DP1)**

The application seeks to form a new vehicular access in the western part of the site and the existing access will be converted to a pedestrian access only. An area is identified within the site for turning and parking. The Transportation Section has no objection subject to conditions requiring the existing access to be blocked off prior to completion or first use of the building, the new access to be formed to an acceptable standard and to ensure boundary treatments don't obscure visibility or encroach on the footway. Transportation also recommend conditions in relation to parking and turning. The recommended conditions would ensure safe entry and exit to the site and adequate parking and turning as required by policy DP1 (ii) (a) and (e).

### **Drainage (EP12)**

A surface water soakaway is proposed to serve the garage. Additional calculations have been provided to support this element of the scheme. Following the receipt of the further information MFRM have confirmed that they have no objection. The timely provision of the Suds measures could be controlled by condition. The proposals would ensure that the surface water from the development was dealt with in a sustainable manner in accordance with policy EP12.

### **National Planning Framework 4**

NPF4 is now a significant material consideration in the determination of planning applications. The relevant provisions of NPF4 are not considered to change the evaluation of the proposal as outlined above, noting that there are a limited number of policies relevant to this proposal in NPF4 namely policies 1, 2, 4, 9, 13, 14, 16 & 22

### **Recommendation**

This application proposes the change of use of farm land to garden ground in order to accommodate a large building on the western edge of Cummington. The proposal is clearly at odds with the stated aims of the settlement text for Cummington which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. A building of this scale in a prominent road side location



such as this is not in keeping with the character of this part of Cummingston and is contrary to policies DP1 (i) (a) and policy EP3. The siting of this development is contrary to policy and it is therefore refused.

<b>OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT</b>
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None

<b>HISTORY</b>
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Reference No.	Description		
17/00830/APP	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray		
	<b>Decision</b>	Permitted	<b>Date Of Decision</b> 31/07/17
16/00881/APP	Demolish building and erect 2 storey dwellinghouse with integral garage and associated works at Old Filling Station Cummingston Elgin Moray IV30 5XY		
	<b>Decision</b>	Permitted	<b>Date Of Decision</b> 20/07/16

<b>ADVERT</b>
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<b>Advert Fee paid?</b>	Yes	
<b>Local Newspaper</b>	<b>Reason for Advert</b>	<b>Date of expiry</b>
Northern Scot	Departure from development plan	09/01/23
PINS	Departure from development plan	09/01/23

<b>DEVELOPER CONTRIBUTIONS (PGU)</b>
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<b>Status</b>	N/A
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<b>DOCUMENTS, ASSESSMENTS etc. *</b>
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*\* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?	YES
Summary of main issues raised in each statement/assessment/report	
Document Name:	Planning Statement
Main Issues:	Explanation of the proposal.  Justification for departure from policy including precedent of previous permission.
Document Name:	Drainage Statement
Main Issues:	Calculations to support the proposed soakaway.

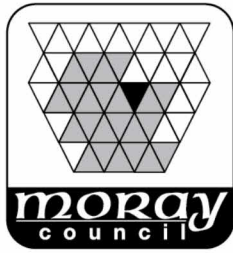
<b>S.75 AGREEMENT</b>
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Application subject to S.75 Agreement	NO
Summary of terms of agreement:	

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
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			

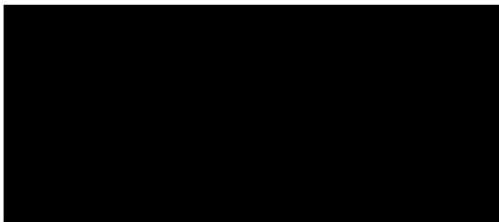


**MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,  
as amended**

**REFUSAL OF PLANNING PERMISSION**

**[Heldon And Laich]  
Application for Planning Permission**

TO

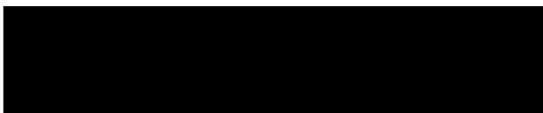


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummington Elgin Moray**

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

Date of Notice: **19 January 2023**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
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, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummington Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
100		Proposed SW drainage layout and details
2273/P/1.02		Elevations and floor plans
2273/P/1.01		Location plan
2273/P/1.03		Proposed drainage strategy and layout

**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, 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.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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.