

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name

Address
Postcode

Contact Telephone 1
Contact Telephone 2
Fax No

E-mail*

Agent (if any)

Name

Address
Postcode

Contact Telephone 1
Contact Telephone 2
Fax No

E-mail*

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | | |
|--|-------------------------------------|--------------------------|
| | Yes | No |
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

DOCUMENT ATTACHED

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

SUBSEQUENT DISCUSSIONS HAVE TAKEN PLACE WITH PLANNING AND ROADS ON POTENTIAL IMPROVEMENTS TO THE PUBLIC ROAD. REFERENCE IS MADE TO THESE FOR THE SAKE OF COMPLETENESS OF INFORMATION

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

- DECISION NOTICE 09/00260 / FULCA ✓
- SITE PLAN ✓
- LOCATION PLAN ✓
- EXTRACT FROM HIGHLAND COUNCIL 'ROAD GUIDELINES FOR NEW DEVELOPMENTS' ✓
- COPY EMAIL DATED 24/11/2009 FROM HIGHLAND PLANNING TO ANDREW PARKER, WICK PLANNING OFFICE ✓

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

1 DECEMBER 2009

Statement of Reasons for Notice of Review

Erection of house at Humster, Newton Row, Wick

Mr and Mrs James Manson

Ref : 09/00260/FULCA

Introduction.

The site subject of review extends to some 0.267 Ha and is located within an open field to the south- west of Wick, approximately 2 km from the town centre. It is served by the eastwards extension of Newton Row, an 800m or thereabouts long single track adopted road running in a generally eastwards direction from its junction with Newton Road. It presently serves two workshops, sixteen houses and three crofts. It is a well maintained and solidly constructed carriageway varying in width between 2.7 and 2.9m with variable width grass verges.

The proposal finds acceptance in terms of Policy PP3 in the Caithness Local Plan but has come in for criticism from the Area Roads and Community Works Manager on the basis that the Newton Row access is considered too narrow and therefore sub-standard in terms of the Council's *Road Guidelines for New Developments*.

He argues that the standards expressed within these Guidelines seek to promote a minimum carriageway width of 3.3m with verges either side of 2m.

Newton Row currently offers a carriageway width of between 2.7 and 2.9 m and verges of variable width between 1.2 and 4m.

Accordingly, the appointed Planning Officer chose to support the ARCW Manager's recommendation that the substandard nature of the road and its verges could not allow further development without increasing the risk of accidents and incurring higher maintenance costs.

A similar application was refused in 2006 for much the same reasons and a subsequent appeal dismissed. It should be explained here that the developer at the time merely lodged the appeal but did not provide any substance to backup his case. Consequently, this proved a rather one-sided affair with the Reporter, quite possibly through lack of alternative argument or perspective, having little option but to side with the Roads engineer.

Reasons for Review.

With regard to the current decision, the first two Reasons for Refusal cover the roads aspect namely,

- 1. The proposal does not accord with Highland Structure Plan Policy G2 Design for Sustainability as it is not compatible with road service provision, and*
- 2. The public road and associated verges leading to the application site is substandard and development of the site would lead to an increased risk of accidents.*

In response to these two related reasons, it is submitted that regard must first of all be had for the nature of rural public roads all over the local and wider Caithness area. Newton Row is typical of the standard of road prevalent in this area and the so called substandard nature of these roads has not prevented the continuing approval of new residential development. Examples within easy reach of the application site include, March Road, Broch Road and the westward extension of Newton Row itself. In each of these situations the public roads reflect the standard of Newton Row (east) in terms of both carriageway and verge width. Houses have been approved in recent years on each of these roads and refusal of development of the application site is not consistent with those comparable decisions. The applicant's local knowledge suggests that there is no history of traffic congestion nor accidents on Newton Row. For many years children have played there and mothers with prams have negotiated the road without incident. It is fair to say this is a cul-de-sac, not a through road, and is used primarily by local people on an every day but limited basis. The users all know what to expect in terms of traffic volume and movement and appear to be quite accepting of the standard without complaint. This may be a reflection of the prevailing attitudes typical of a rural community who are accepting of a commonplace standard with which they are familiar and at ease, though that standard might not be regarded as ideal in the eyes of a highway engineer.

Part 2. Introduction to the Council's *Road Guidelines for New Developments* confirms the standards are aimed specifically at new housing development on greenfield sites, redevelopment of existing sites, infill development and its principles applied to all new roads constructed within the Highland Council area. Clearly, the document contains desired standards to which new development ought to aspire but there is nothing really to demonstrate it is intended to be applied to existing roads serving existing developments. **Part 3. General Requirements** acknowledges the diversity of the region in structure and character and recognises that strict application of the standards may not always be appropriate.

It is submitted, therefore, that some doubt exists as to the relevance of the standards in this particular instance where the access road to which improvements are being sought is already in existence and has operated satisfactorily and without safety issues throughout recent memory. On the established basis that all applications require to be treated on their individual merits, it is considered only reasonable to question the application of the new development guidelines to the proposal in hand. Even if it were to be determined the standards are applicable, then sufficient flexibility is still retained within the terms of the guideline document as to whether or not these must necessarily be applied to Newton Row, given its similarity in terms of standard of construction with other local roads and the substandard character of the roads generally in this part of the Highlands.

In subsequent discussions with the Council's roads engineers it has been confirmed the application might only be acceptable if the carriageway is widened along its entire length to 3.3m. There is a concern, shared by Roads, that surface widening by such a thin margin might prove unstable in the long term given the practical difficulties of tying it in with the existing road surface. Also, in reality, little benefit will be derived by road users as 3.3 m will not allow two vehicles to pass side by side. Drivers will still have to make use of the available passing places and, if anything, the increased width might only tempt higher traffic speeds, to the detriment of safety. It is

recognised there exists some four 'pinch points' leading towards the application site where the carriageway and verge relationship are as follows :

Carriageway 2.7m Verge 2.4m and 1.9m
Carriageway 2.8m Verge 2.2m and 1.5m
Carriageway 2.8m Verge 2.2m and 1.2m
Carriageway 2.9m Verge 2.2m and 0.85m

These are the 'worst' instances and presumably the ones which give weight to the Roads Engineer's objection. In recent weeks consultation has taken place with Planning and Roads with a view to possibly submitting a new application which would offer the compromise of the applicant providing 2-3 passing places in the vicinity of the 'pinch points' to help bring some level of improvement and help allay road safety concerns. It is considered unreasonable for the burden of widening the entire road to 3.3 m to fall on the shoulders of one developer for the benefit of all road users but, though this remains insisted upon by roads, it possibly finds some favour with planning. The email to planning dated 24 November 2009 is attached for information but, at the time of preparation of this Notice of Review, a response was still awaited. It is appreciated this is not information which formed a part of the planning application under Review but has been included has an indication of the applicant's preparedness to find a level of compromise by going some way to meeting official's recommendations.

The third reason for refusal was,

- 3. Approval of the proposal would encourage further ribbon development and set an undesirable precedent for further development of a similar nature in the area.***

It requires to be remembered that the local area falls within Policy PP3 in the Caithness Local Plan whereby new housing development will only be acceptable where it meets specific requirements such as, in this instance, the replacement of a ruinous dwelling. As such, sufficient control exists through established Local Plan policy to ensure there need not be any fear from an influx of housing demand as a consequence of this application ultimately being approved.

In so far as ribbon development is concerned, technically this term is generally acknowledged as the building of (primarily) houses along thoroughfares extending out of towns and is not normally a term that would be applied to development in what is effectively a cul-de-sac, and certainly not in an instance where a new access is not being proposed. The intended access point to this application is an established agricultural access used currently without restriction therefore more accurately constitutes linear development as opposed to ribbon.

Some recognition should be given to the positive aspects of this application namely, that it proposes to breath fresh life and vitality into the site of a ruined cottage which otherwise will be consigned to further deterioration through exposure to the elements

Conclusion.

In conclusion, the merits or otherwise of this application depend essentially on subjective opinion as to whether or not Newton Row, as currently designed, is capable

of sustaining one more house, seventeen as opposed to sixteen. Clearly, as evidenced by the continuing approval of houses in similar locations in the local area, the standard of public road access is not always considered a determining factor.

The argument in support of this Notice of Review is that Newton Row is no different from many, but rather typical of, local access roads in the region and, in the absence of hard evidence pointing to problems in terms of road traffic accidents, its standard ought not to present a barrier to what remaining limited development potential it might still have.

Approval would represent consistency of decision making and the fear of precedent can be dismissed due to the restrictive nature of planning policy in the area.

Accordingly, it is respectfully requested that the Review Panel finds merit in the proposal and determines favourably on the side of the applicant.

***Dave Macdonald
Highland Planning
1 December 2009***

1.7 GENERAL STRATEGIC POLICIES

1.7.1 Emerging from the sustainability objectives and the strategic themes the following general policies have been developed. These demonstrate the expectations of The Council with regard to any planning for development within The Highland Council area. They cover a range of issues relating to sustainable development and are considered vital to the implementation of the Plan's strategic themes. In particular they reflect the need to integrate community, economic and environmental interests, the importance of development which benefits local communities and the need for partnership working to achieve the Plan's aims and objectives. Development will be assessed against each strategic policy.

Policy G1 Conformity with strategy

The Council will support developments, having regard to the Plan's sustainable objectives, which promote and enhance the social, economic and environmental wellbeing of the people of Highland.

Policy G2 Design for sustainability

Proposed developments will be assessed on the extent to which they:

- are compatible with service provision (water and sewerage, drainage, roads, schools, electricity);
- are accessible by public transport, cycling and walking as well as car;
- maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy;
- are affected by significant risk from natural hazards, including flooding, coastal erosion, land instability and radon gas, unless adequate protective measures are incorporated, or the development is of a temporary nature;
- are affected by safeguard zones where there is a significant risk of disturbance and hazard from industrial installations, including noise, dust, smells, electro-magnetism, radioactivity and subsidence;
- make use of brownfield sites, existing buildings and recycled materials;
- impact on individual and community residential amenity;
- impact on non-renewable resources such as mineral deposits of potential commercial value, prime quality or locally important agricultural land, or approved routes for road and rail links;

Under Primary Policy PP2 the Council will favour new housing development:

6. In the Dispersed Townships indicated in the table below, subject to overcoming the servicing constraints and meeting the specified spacing between dwellings:

LOCATION	SPACING (Metres)	CONSTRAINT
(a) Achavar	150	Water supply
(b) Achavrole	150	Water supply
(c) Achow	150 – 200	Water supply
(d) Balhauich	100	Water supply
(e) Barrock	100 – 150	Poor sub-soil drainage
(f) Brough	150	Poor sub-soil drainage
(g) Borgue – Ramsraigs	100	Water supply
(h) Green Hill	150	Water supply
(i) Houstry	125	Water supply
(j) Keiss	150	Poor sub soil drainage
(k) Mid Clyth	150	Poor sub soil drainage
(l) Mybster	100	Poor sub soil drainage
(m) Occumster	100	Water supply
(n) Smerral	125 – 150	Water supply
(o) Ulbster	100	Poor sub-soil drainage
(p) Upper Lybster	125	Water supply
(q) West Dunnet	100	Road

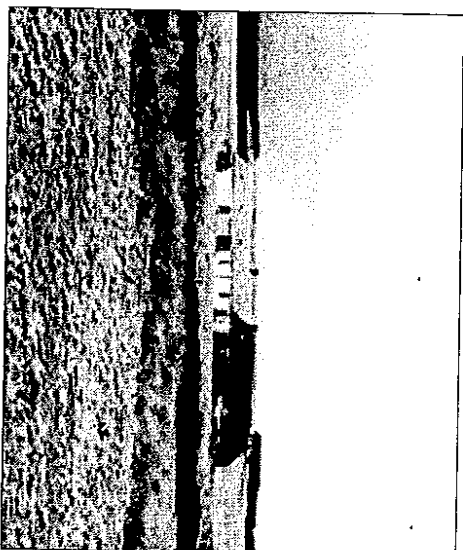


Photo: Vacant house at Mybster

Minimum spacing distances may be varied in the event of a demonstrable need for social or amenity housing that is unable to be met in nearby clustered settlements [H3].

7. In the following settlements with limited capacity for infill housing:

- (a) Achvarasdal - sub-soil limitations.
- (b) Barrock – drainage/sub-soil limitations.
- (c) Bower – drainage.
- (d) Brough – drainage/sub-soil limitations.
- (e) Burrigill/Forse – water supply.
- (f) Latheron – water supply.
- (g) Latheronwheel – water supply. (The suitability of land to the south west for longer term development requires to be considered in discussion with land owners and the wider community).
- (h) Newport – water supply.
- (i) Shebster – water supply.
- (j) Spittal – water supply.
- (k) Westerdale – sub-soil limitations.

General Housing Policy H also applies to these settlements.

8. At Mill and Mains of Forss the Council will favour conversion and/or reuse of redundant buildings for permanent residential and/or holiday letting accommodation. Protection of the setting of listed buildings and woodland, and avoiding conflict with the continued operation of the farm, are also important considerations.

Under Primary Policy PP3 the Council will presume against housing development:

9. In the hinterland around the towns of Wick and Thurso, as indicated on the Proposals Map and Maps HAT 1 and 2. Exceptions will only be made where:

- a house is essential for the management of land and associated family purposes (see General Policies Annex);
- social housing is required to meet demonstrated local affordable needs that cannot be met within settlements; or
- development involves a conversion of a traditional building or redevelopment of a ruinous dwelling.

All proposals will be subject to adequate services being available and siting and design considerations.

10. Sensitive Areas as defined under General Policy PP3 in the General Policies Annex. Exceptions will only be made where a house is essential for the management of land and associated family purposes.

11. In the Dispersed Townships indicated in the table below, until the necessary

improvements are carried out. Thereafter any development should be adequately sited in accordance with the spacing indicated.

LOCATION	SPACING (Metres)	CONSTRAINT
(a) Hill of Forss	100	Drainage
(b) Rattar/ Scarfskerry	100 - 150	Drainage
(c) Swinney Hill	150	Water supply, drainage
(d) Dunnet - Dwarwick Pier Road	100	Road
(e) West of Lybster	75 - 100	Water supply, drainage

Minimum spacing distances may be varied in the event of a demonstrable need for social or amenity housing that is unable to be met in nearby clustered settlements [H3].

12. That creates new ad hoc clusters of housing or adds to the Housing Groups in Appendix 1X. In exceptional cases there may be limited opportunities to add to these groups, and only then if their appearance is enhanced or infrastructure problems are remedied.

13. Within the following settlements until service deficiencies are eased or removed:

LOCATION	CONSTRAINT
Dixonfield/ Duncanshill	Road widening and footpath provision towards Thurso.
Gerston Farm Road, by Halkirk	Access
Gillock	Drainage

Mey	Drainage - following a new system programmed for 2003/4, potential will exist for the comprehensive servicing and development of 2.3 ha. of land north of the Castle Inn for 20 - 25 houses.
Newtonhill	Drainage; Roads - development allowed only after connection to Wick system and road improvements
Scarfskerry	Drainage

14. In all cases a strong presumption will also be maintained against development on land immediately outwith the defined settlement boundaries.

Business / Industry

15. The Council generally supports small business development or additions to existing indigenous industries in the Landward Area in accordance with Structure Plan Policy B7, provided there is no adverse impact upon adjacent uses and the development can be adequately serviced.

Under Primary Policy PP1 the Council favours the following:

16. The development of an Archaeological Visitor Centre at Thurminster.

17. Subject to suitable servicing and landscaping, land to the north of the garage at the former station yard in Thurminster has potential for business, commercial and light industrial development.

18. The preparation of a programme of improvements to the various small harbours around the coast. There is a need to prioritise improvements based on safety issues, heritage and tourism potential.

19. The renovation of existing buildings for self catering tourist accommodation:
 (a) at Crosskirk Bay, where limited additional development might be possible subject to avoiding impact upon the setting of nearby historical/archaeological features;
 (b) at the former lighthouse keepers' houses at Dunnet Head and Holburn Head;
 (c) on the foreshore at Berrisdale; and
 (d) the derelict properties to the north of Lybster, which may also be suitable for permanent housing.

20. At Dunnet 0.2ha is identified for tourist related commercial uses. Land should be reserved to the north to ensure a safe visibility splay for access.

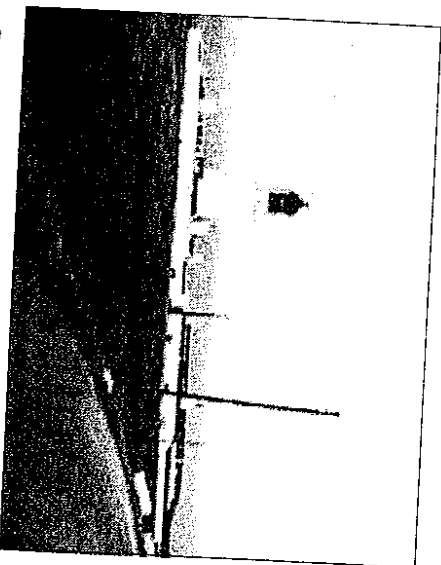


Photo: Lighthouse and former keepers' houses at Dunnet Head

2006 application ~~referred~~



SCOTTISH EXECUTIVE

Development Department
Inquiry Reporters Unit

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Callendar Road, FALKIRK FK1 1XR

DX 557005 FALKIRK

Telephone: 01324 696 451

Fax: 01324 696 444

http://www.scotland.gov.uk/planning_appeals/seiru

Our ref: P/PPA/270/450

5 June 2007

M M Miller (Wick) Ltd
Miller House
55 Macrae Street
WICK
KW1 5QW

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4

PLANNING APPEAL BY MR & MRS SUTHERLAND: DEMOLITION OF RUINOUS DWELLING, ERECTION OF NEW DWELLINGHOUSE, FORMATION OF NEW ACCESS, AND INSTALLATION OF SEPTIC TANK AND SOAKAWAY AT HUMSTER, NEWTON ROW, WICK, CAITHNESS

1. I refer to your clients' appeal, which I have been appointed to determine, against the refusal of outline planning permission by the Highland Council for the above development. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 9 May 2007. For the reasons given below, I have decided to dismiss the appeal.
2. The appeal site, which extends to 2,307m², lies in an open field close to a ruinous crofting house in countryside in the south western area of Wick, approximately 2km from the town centre. It is accessed from the town centre by Newton Road, which leads to Newton Row, a single track road with passing places, serving a number of businesses and houses along and close to it as it leads up to a hammerhead at the top of Newton Hill. There appears to have been no vehicular access to the ruinous dwelling.
3. The application, which is in outline, concerns the demolition of the remains of the ruinous dwelling on the site, the erection of a new 1½ storey house in its place, the formation of a new vehicular access from the hammerhead, and the installation of a septic tank and soakaway. There are no indicative drawings, merely a location plan and block plan showing the proposed access road, which would be 94.5m long and 9m wide. The application form details that 3 car parking spaces would be provided.

4. Planning permission was refused for the following reason: -

In the interest of public safety in that the public road leading to the application site is substandard, as are the associated verges, and this development if approved would increase the risk of accidents on that public road.

5. **In response to notification**, there were no objections lodged to the application. **In response to consultation**, SEPA had no objections, while Scottish Water and the council's Archaeologist had no objections, subject to conditions. The Roads Department recommended refusal for the reason stated in the decision notice.

Summary of the Case for the Appellant

6. In support of your clients' appeal, it is submitted that, since the appeal application was refused, the council has awarded a school transport contract to a business, using the same access road. It is understood that the contractor in question has acquired 5 mini-buses to operate the contract. In these circumstances, your clients are at a loss to understand why planning permission for the appeal proposal should have been refused when they only have one vehicle.

Summary of the Case for the Council

7. The council adopt the committee report and supporting documents as its submissions. The appeal site falls within an area where policy PP3 of the CLP applies. This policy presumes against new housing development, subject to a limited number of exceptions. One of these exceptions covers the replacement of an existing ruinous dwellinghouse and, in that respect, the appeal proposal is acceptable.

8. The over-riding consideration in this appeal relates to the consultation response from the Roads Department. The detailed response indicated that, at several locations, the existing road, Newton Row, had been surveyed as being too narrow, with verges ranging from 0.85m to 1.9m as compared with the 2m standard width. Because of the substandard road and verges, further development would lead to increased risk of accidents and higher maintenance costs.

CONCLUSIONS

9. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. I consider, based on my inspection of the appeal site and the written submissions, that the issues to be determined are whether the proposal is consistent with the relevant provisions of the development plan and, if so, whether there are nonetheless other material considerations to justify withholding the grant of outline planning permission. Material considerations in this appeal include the consultation responses and the submissions of the parties.

10. The development plan comprises the HSP, approved in 2001, and the CLP, adopted in 2002. No structure plan policies have been drawn to my attention by the parties. As regards the CLP, the council concedes that the appeal proposal is one of the exceptions to the presumption in policy PP3. The appeal proposal is therefore consistent with the provisions of the development plan and I now require to consider whether there are nonetheless other material considerations to warrant withholding the grant of outline planning permission.

11. As regards material considerations, the views of statutory and other consultees can form considerations. In this case, the views of the Roads Department are significant. Newton already serves a considerable number of houses and businesses, mainly in linear form along close to the road itself. The road is narrow, with passing places, and in technical terms substandard. The appeal proposal entails the construction of a relatively lengthy section of private access road through the field from the hammerhead at the end of Newton Row to the site of the proposed house. While only one additional house is proposed, given the substandard condition of Newton Row and the amount of traffic it already carries, I consider that further development particularly development relatively remote from Newton Row, should not be permitted for road safety and road capacity reasons. Approval of the proposal might encourage further ribbon development and set an undesirable precedent for further developments of a similar nature in the local plan area. As regards the school transport contract, I have no information on the circumstances leading to the award of the contract, which in any event would not have been made on land use planning grounds. Accordingly, I conclude that there are material considerations in this appeal to justify withholding the grant of outline planning permission.

12. I have taken account of all the other matters raised but find none that outweighs the considerations on which my decision is based. Accordingly, in exercise of the powers delegated to me, I hereby dismiss your clients' appeal and refuse to grant outline planning permission in respect of application (council ref: 06/00169/OUTCA), registered on 15 March 2006.

13. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

14. A copy of this letter has been sent to the Highland Council.

Yours faithfully

This was the version issued to parties on 5 June 2007

DONALD A WATT
Reporter



**ROAD GUIDELINES FOR NEW
DEVELOPMENTS**

**HIGHLAND COUNCIL
ROADS AND TRANSPORT**

2. Introduction

This document contains guidelines for design and construction of new development associated roads and footways within the Highland Council area, with particular regard to standards for safety and the provision of accesses, servicing arrangements, and parking facilities.

It also gives guidance on the procedures to be followed to reach the Council's adoptive standards.

While the guidelines have been specifically aimed at new housing development on green field sites, the principles will also apply to smaller scale redevelopment of existing sites and for infill development in both rural and urban areas.

In the interests of pedestrian and traffic safety it is desirable that the geometric standards outlined in this document should apply to all new public roads constructed within the Highland Council area.

The guidelines will be regularly updated to reflect changes in policy or accepted practice, and readers should confirm the latest version by contacting the local Area Roads And Transport Manager of the Highland Council.

3. General Requirements

All roads matters on new developments should be to the satisfaction of the Roads Authority involved, either the Highland Council for local roads, or the Secretary of State for Trunk Roads, and in certain situations both.

In acting for the Highland Council the Director of Roads And Transport together with the local Area Roads And Transport Manager reserves the right to vary requirements to suit local conditions, since the region is diverse in structure and character, and it is recognised that the strict application of these standards may, in certain circumstances, not be entirely appropriate. The advice of the Area Roads And Transport Manager should be sought at an early stage.

For design aspects not fully covered, reference should be made to the appropriate publications listed in Appendix 6.

From : ...
Subject: House at Humster, Newton Row, Wick - Mr James Manson
Date: 11/24/2009 05:11 PM
To: ...

Andrew,

Many thanks again for your time on Friday and I apologise for the lack of warning. It was very good of you to see me.

I had a chat with Iain Moncreiff today to ascertain his views on the prospect of his support for a new house application accompanied by proposals to insert 2-3 passing places on the access road. Whilst accepting that would be an improvement on what had gone before, he still holds a preference for widening of the carriageway to 3.3m (from its current 2.7 - 2.9m). He tended to agree that was an onerous requirement, especially falling upon one developer, but considered it was what the road needed.

I explained we were running out of time to lodge a request for a Review and there was always the chance the Panel might approve with no roads improvement, regardless of the Appeal decision (given that that was a rather one-sided affair, as Mr Manson didn't defend his case very effectively). Even if we lost the Review, Mr Manson would not be any worse off than at present so there is certainly some merit in pressing on with that course of action. However, meantime, Iain Moncreiff has agreed to cost the road widening and possibly the cost of passing places for the purposes of comparison. He is due to meet with another party this week interested in building a house in the same area and raised the prospect of cost sharing. He will get back to me on that. Clearly Planning will have its input there too, if not already.

As I think passing places will be a more economic and reasonable option, falling as it will to be the responsibility of only one developer for the benefit of 10 other road users, the question I have to ask of you now is, knowing how Roads are likely to respond in terms of road improvement preference to a new application, ie road widening as opposed to passing places, how might you yourself tend to react in terms of weight given to Roads' observations ?

I am assuming, because of the site history, this would be a proposal which would go before Committee in the event of a recommendation to approve....or would it be a delegated decision either way ?

I fully understand you can give nothing by way of commitment and this email is concerned only with the roads aspect for now, leaving aside any other potential policy issue, but you will appreciate the usefulness of our knowing in advance the likely possibilities, both procedural and recommendation, at this juncture.

The only other point I'd make just now is for you to remember this is an existing agricultural field access, regularly used by Mr Manson without restriction. I haven't run this by him yet but would be prepared to suggest he foregoes continued future use for heavy agricultural vehicles, and accept, if approved, the access be strictly for residential purposes only.

I shall look forward to hearing from you.

Regards

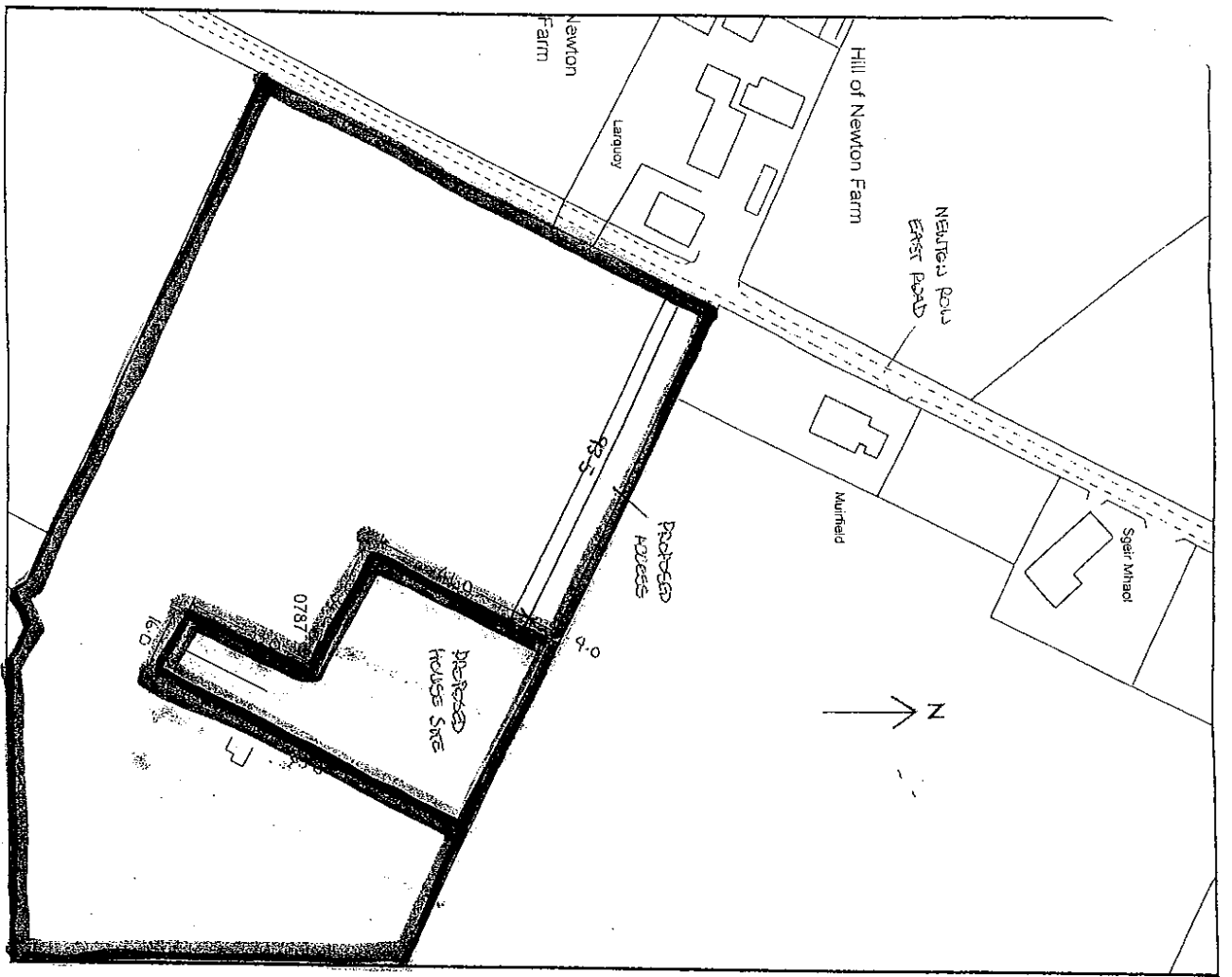
Dave Macdonald

Individual houses approved and erected in local area of site subject to Notice of Review, each accessed via public roads of widths 2.7 - 2.9 metres.

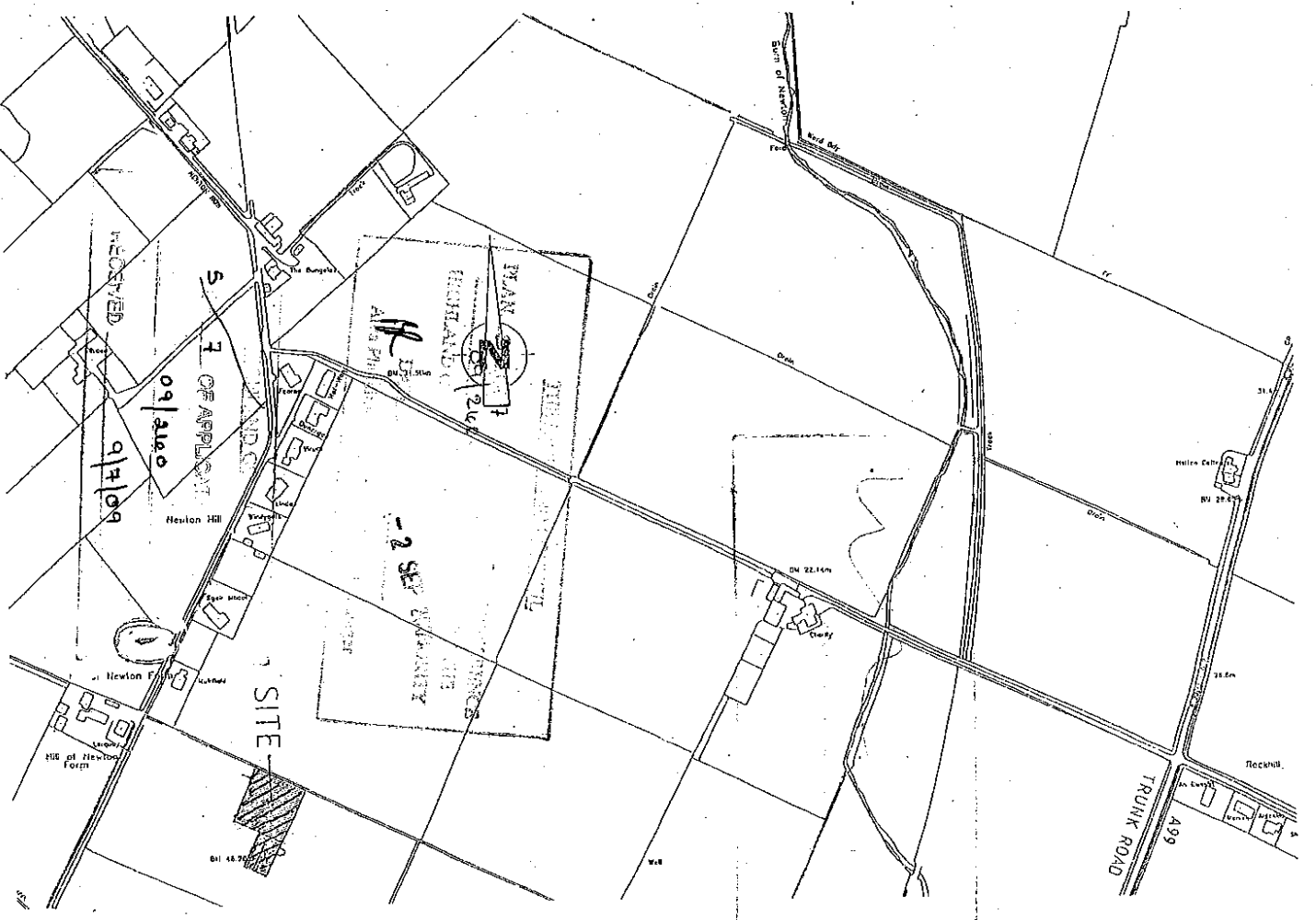
(Please refer to site numbers plotted on attached location plan)

Site No.

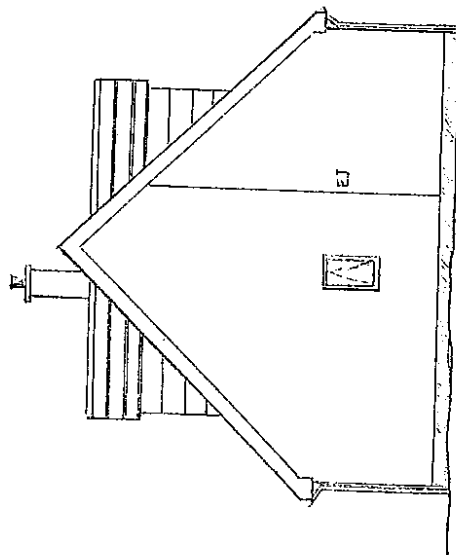
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3. Ref No : 07/00536/FULCA
4. Ref No : 07/00626/FULCA
08/00250/FULCA
5. Ref No : 04/00488/FULCA
6. Ref No : 08/00091/FULCA
7. Ref No : 08/00513/REMCA
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10. Ref No : 08/00093/FULCA



SCALE = 1:1250

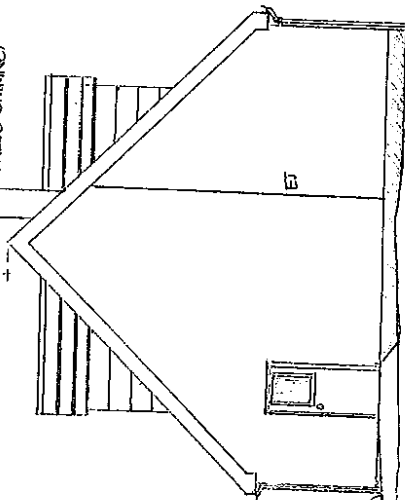


LOCATION PLAN

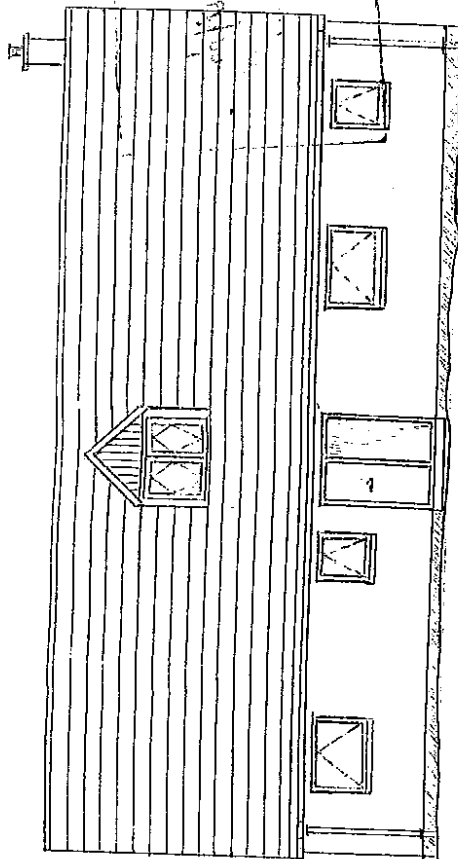


SIDE

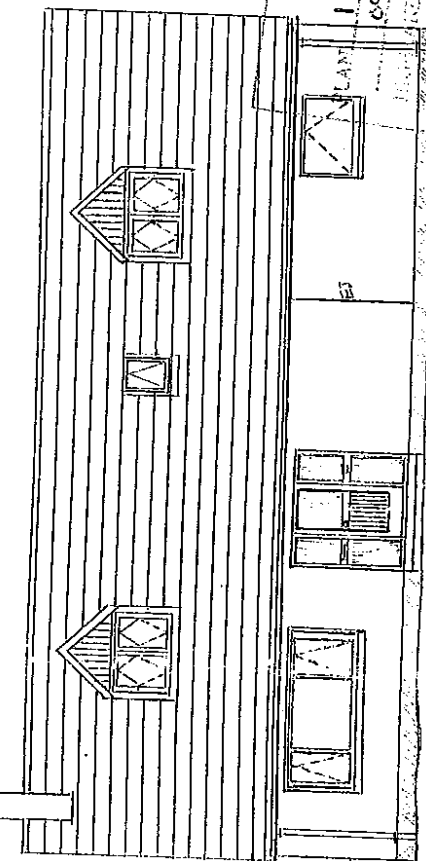
600
FALSE CHIMNEY



SIDE



REAR



FRONT

MAIN WALL - SKYE MARBLE DRY DASH RENDER

BASE COURSE - GREY GRANITE " " "

ROOF - SLATE GREY 'RENOVON' CONCRETE TILES

WINDOWS & DOORS - WHITE UPVC

GUTTERING - BLACK 1/2 ROUNDS

DATE: 2 SEP 2009

10/07 OF APPLICATION

09/200

RECEIVED 9/11/09

CLIENT:	MR JAMES MANSON	SCALE:	1:100	DATE:	MAY 09	REV:	
SITE:	PROPOSED 1/2 STOREY HOUSE UPPER HUMSTER CAITHNESS	DRAWN:	SE	DESIGN:	CA-JM-01		



The Highland Council
Comhairle na Gàidhealtachd
SERVING The Highland Community

2-1

PLANNING APPLICATION

(TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS)

PLEASE READ THE ENCLOSED EXPLANATORY NOTES CAREFULLY BEFORE STARTING. IT IS IMPORTANT THAT THIS FORM IS COMPLETED CORRECTLY TO AVOID DELAYS IN PROCESSING.

FOR OFFICIAL USE ONLY

Application No.

09 260 FULCR

Fees

Appl. £390

Advert. £

TOTAL £390

Date Paid

9.7.09

Receipt No.

035005

Grid Reference

Settlement

Ward Number

Local Plan

Area No.

Status

Insert

Type Applicant

Application

1 TYPE OF APPLICATION

I / we hereby make application for:

- Planning Permission
- Outline Planning Permission
- Approval of Reserved Matters (submission of details following on from an earlier grant of Outline Consent)
- Listed Building Consent
- Conservation Area Consent

2 APPLICANT'S NAME ADDRESS

MR + MRS MANSO
UPPER NORTHFIELD FARM
WICK.

POSTCODE
TELEPHONE NO.
CONTACT NAME (if different)

0955 603243 FAX NO.

3 AGENT'S NAME ADDRESS

TELEPHONE NO.
CONTACT NAME (if different)

FAX NO.

4 DESCRIPTION OF PROPOSED DEVELOPMENT

DEMOLISH RUINOUS HOUSE, BUILD NEW HOUSE,
UPGRADE EX. ACCESS ROAD, OIL TANK, SEPTIC TANK,
AND SOAK-AWAY.

5 LOCATION OF PROPOSED DEVELOPMENT

UPPER HUMSTER, HEMBRIGGS

6 EXISTING USE OF LAND / BUILDINGS

RUINOUS CROFT HOUSE

7 EXISTING BUILDINGS

Existing buildings on the site will be

- unaffected
- altered/extended
- demolished
- changed in use

Details:

8 PREVIOUS DEVELOPMENTS

NONE

REFUSAL OF PLANNING PERMISSION

Reference No: 09/00260/FULCA

To:
Mr And Mrs Manson
Upper Northfield Farm
Wick

**Town & Country Planning (Scotland) Act 1997 as amended by the Planning Etc.
(Scotland) 2006 Act**

DECISION NOTICE

**Demolish ruinous house, erection of new house, upgrade existing vehicular access,
installation of oil tank and septic tank and soakaway
Humster Newton Row Wick**

The Highland Council in exercise of its powers under the above Acts **refuses planning permission** for the above development in accordance with the particulars given in the application and the following plans/drawings:

Type of Plan	Plan Number	Date of Plan
ELV – Elevations	09-JM-01	1.05.09
FLR- Floor Plan	09-JM-02	1.05.09
SECT-Sections	09-JM-03	1.05.09
BLK- Block Plan	09-JM-04	1.05.09
LOC-Location Plan	1	
NEI-Neighbour Plan	2	
OTH-Other	3	

This application is refused subject to the following reasons:-

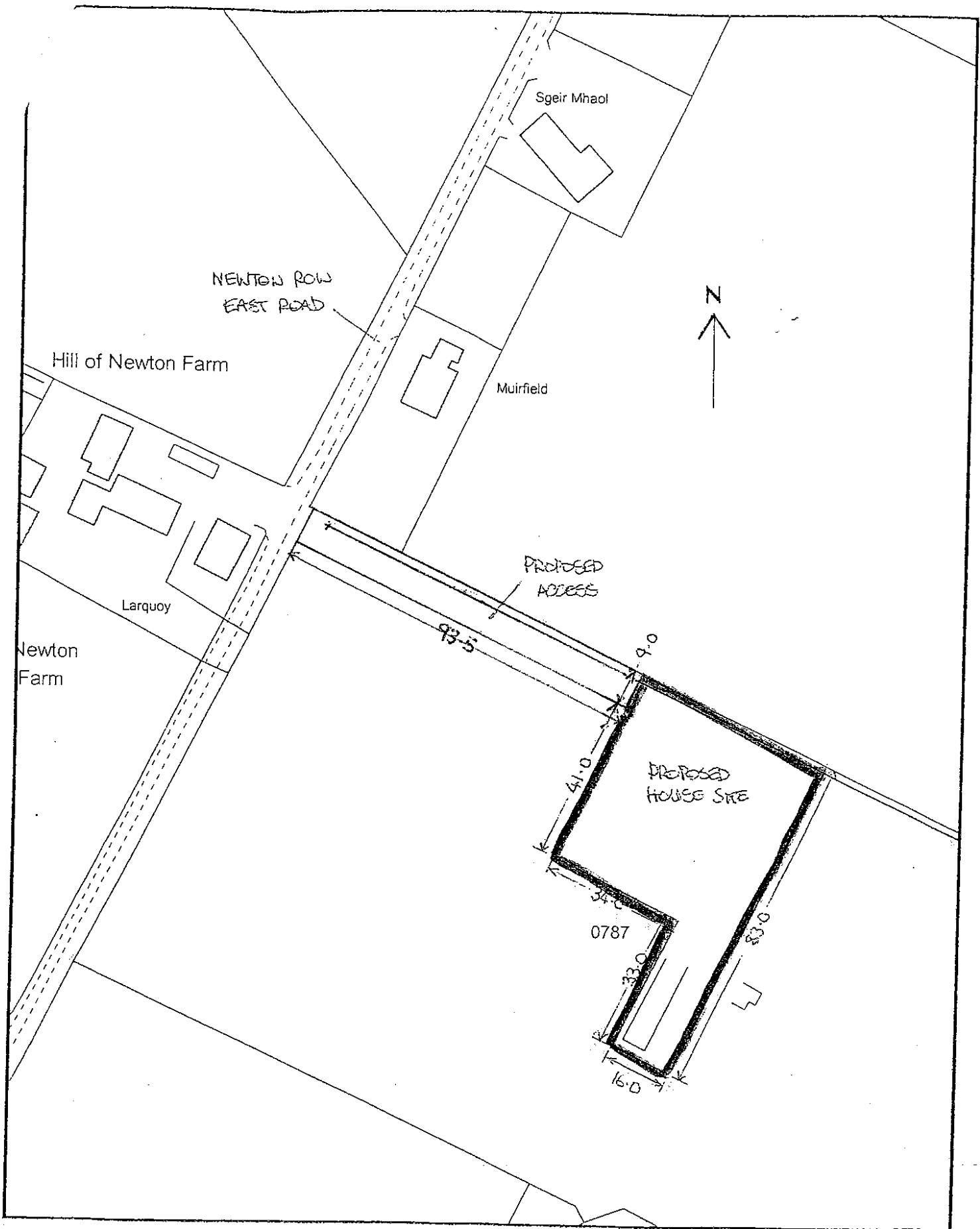
1. **The proposal does not accord with Highland Structure Plan Policy G2 Design for Sustainability as it is not compatible with road service provision.**
2. **The public road and associated verges leading to the application site is substandard and development of the site would lead to an increased risk of accidents.**
3. **Approval of the proposal would encourage further ribbon development and set and undesirable precedent for further development of a similar nature in the area.**

Dated: 2nd September 2009

Area Planning & Building Standards Manager

M

Page 1 of 2



1 - DEC 2009

SCALE :- 1:1.250

Nichola Gaffney

From: Bob Robertson
Sent: 19 January 2010 17:55
To: Karen McLeod
Cc: Nichola Gaffney; Claire Copple
Subject: Notice of Review - 09/00260/FULCA - Mr and Mrs Manson, Humster, Newton Row, Wick
Importance: High

Karen,

I note that the Notice of Review form has not been signed by the agent, Dave Macdonald. (see page 4)

I have attached copies of the relevant file documents for consideration by the Review Body.

In response to the agent's written submissions:

The application was refused for 3 reasons. The first two reasons related to the consultation response from TEC Services which recommended that the application is refused, noting the substandard nature of the road. A letter dated 2nd September 2009 from the Area Roads Engineer, Iain Moncrieff, to the applicant advised that TEC Services could not support the application "as the road is significantly below our current standards" and further noted that TEC Services had "consistently recommended refusal on all planning applications since before 1997".

The Delegated Report Planning History section also notes a recent refusal by Committee and subsequently dismissed Appeal. The Reporter highlighted that the previous proposal should not be permitted for road safety and road capacity reasons. I consider that this demonstrates a clear, unambiguous and consistent approach by the Area Roads Engineer to the current proposal, with the poor standard of road.

The consultation response by the Area Roads Engineer on the proposal is a professional assessment; it is not, as suggested by the agent a "subjective opinion". Applications are assessed on their individual merits and the merits of other planning approvals in the area are not material to the consideration of the Review. The Area Roads Engineer has assessed this proposal on its own merits.

Accordingly, I would respectfully ask the Review Body to dismiss the Review.

Bob

Bob Robertson
Principal Planning Officer
Drummuie
Golspie
KW10 6TA
01408 635371
bob.robertson@highland.gov.uk

-----Original Message-----

From: Karen McLeod
Sent: 15 January 2010 14:31
To: Allan Todd
Subject: FW: Notice of Review - 09/00260/FULCA - Mr and Mrs Manson, Humster, Newton Row, Wick

For info:
<http://www.highland.gov.uk/yourcouncil/committees/planningreviewbody/planningreviewbodydocs/prb-review-09-00061-rbceref.htm>

K
Karen McLeod
Legal Services

20/01/2010