THE HIGHLAND COUNCIL NORTH PLANNING APPLICATIONS COMMITTEE **18 February 2014**

13/03989/FUL: Mrs J Mackenzie Land South of 17 Marine Park, North Kessock

Report by Area Planning Manager

SUMMARY

Description : Erection of house

Recommendation - GRANT

Ward: 10 - Black Isle

Development category : Local Development

Pre-determination hearing : Not required

Reason referred to Committee: Representations from more than five individual addresses.

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought for the erection of a one and a half storey house with an attached single car garage located on the western gable of the house. The upper floor accommodation will be contained entirely within the roof space. The property will have a footprint of 125 m², or thereby, and a ridge height of 6 metres. It is orientated on the plot so that the principle elevation faces south, with views across the public road and over the Beauly Firth. The house is positioned in the centre of the plot which allows for the provision of parking and turning for three cars at the front of the property, a rear garden of a depth of 7 metres approx. and 2 metres (approximately) separation from the side boundaries. The eastern gable has no openings. There is a single window on the western gable. The upper floor accommodation will gain daylight from three rooflights on the principle roof plane. The external materials will be a combination of larch timber cladding and smooth render for the walls. The roof is to be clad with natural slate.
- 1.2 Advice was sought through the informal pre-application service for local development. The response indicated that there was a general concern about the impact that the erection of a house in this location would have on the character of the area and whether a safe access could be provided directly off the public road.

A planning application was lodged in March 2013 (Ref 13/00812/FUL). This

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application was the subject of formal consultation, publicity procedures and detailed discussions with the Planning Service. The consultation responses and discussions regarding this previous application have informed the content and form of the current application specifically in relation the servicing of the site and the scale, massing and design of the house. The previous application was withdrawn prior to the current application being lodged in October 2013.

1.3 **Variations**: Amended plans were submitted in January 2014 which relocated the garage from the eastern gable of the property to the western gable.

2. SITE DESCRIPTION

2.1 The application site extends to 0.5 ha (approximately) and forms part of the front garden ground of 17 Marine Park. The garden is enclosed by timber fencing on the eastern and western boundaries and a 1.2m, or thereby, blockwork and harled wall on the southern boundary, a section of which has been removed. The garden of 17 Marine Park is terraced to accommodate the 2 metre, or thereby, change in level from north to south across the site. Immediately to the west lies the property, 18 Marine Park. To the east is a public footpath which links Marine Park and Millbank. Beyond this footpath is 21 Marine Park.

3. PLANNING HISTORY

3.1 13/000812/FUL – Erection of House- Withdrawn – 03.10.2013.

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown Neighbour

Representation deadline : 22.11.2013.

Representation deadline following re advertisement and notification: 07.02.2014

Timeous representations : 7 individual addresses, A petition containing 12 individual addresses.

Late representations : None

- 4.2 Material considerations raised are summarised as follows:
 - Visual impact of development on the character of the shore road, in particular out of keeping with the existing pattern of development.
 - Over development of the site.
 - Poor access onto the shore road, lack of sufficient visibility, conflict with pedestrians using footpath.
 - Impact on the residential amenity of 18, 19 and 21 Marine Park.
 - Surface water run off from site.
 - Potential flood risk.

Other considerations raised are summarised as follows:

- Land was historically intended as communal open space and was never intended to be built upon.
- Loss of property value.

4.3 All letters of representation are available for inspection via the Council's eplanning

portal which can be accessed through the internet <u>www.wam.highland.gov.uk/wam</u>. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **TEC Services (Roads):** No objections to servicing arrangements. Any gates must be set back 8 metres from the road edge. Visibility splays of 2.4m x 90m required.
- 5.2 **Knockbain Community Council**: Comments that the proposed entrance is potentially hazardous and that the formation of the access will create a precedent. The external finish of the development is not in keeping with the character of the existing development.
- 5.3 **Scottish Water:** No objections. Capacity within public system for water and sewer connections.
- 5.4 **Scottish Environmental Protection Agency**: No objections on flood risk.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 34	Settlement Development Areas
Policy 64	Flood Risk

6.2 Ross and Cromarty East Local Plan (adopted 2007)

North Kessock Settlement Development Area

7. OTHER MATERIAL CONSIDERATIONS

7.1 Scottish Planning Policy – Flooding and Drainage

7.2 Inner Moray Firth Proposed Development Plan (November 2013)

North Kessock Settlement Development Area

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 **Development Plan Policy Assessment**

- 8.4 Policy 28 (sustainable development) of the HwLDP aims to ensure that development is sustainable and lists the criterion against which proposals shall be assessed. The parts of the policy of particular relevance to this proposal states that proposals should be assessed on the extent to which they "are compatible with pubic service provision, impact on individual and community residential amenity" and "demonstrate sensitive siting and high quality design in keeping with local character and in making use of appropriate materials".
- 8.5 Policy 34 (Settlement Development Areas) states that we will support proposals within SDA's if they meet the requirements of Policy 28 and all other relevant polices of the plans. We will judge proposals in terms of how compatible they are with the existing pattern of development and landscape character, how they conform with existing and approved adjacent land uses, and the effect on any natural, built and cultural heritage feature.
- 8.6 Policy 64 (flood risk) states that development proposals will need to demonstrate compliance with Scottish Planning Policy where the proposal is within or borders an area at risk of flooding.

8.7 Material Considerations

- 8.8 The proposal represents a form of in-fill development by the sub division of the existing garden ground. The sub-division of garden ground provides an opportunity for further residential development within an established residential area. It is considered that the principle of in-fill development accords with the provisions of the HwLDP, the Ross and Cromarty East Local Plan and the emerging Inner Moray Firth Development Plan.
- 8.9 Marine Park consists of 24 houses, which by virtue of the planned road layout and style of houses has a distinctive pattern and character. The distinctive layout results in a variety of plot shapes and sizes. In this case the two house plots which will be formed by the sub division of the garden, will be comparable in size and shape to many of the existing house plots. In a number of cases the existing house plots are smaller than that proposed.
- 8.10 The existing houses are all similar in scale, massing and design. The majority are single storey properties, with dry dash walls and grey concrete tiles. The proposed house has been designed to reflect the established character of the houses in terms of its overall massing and height whilst introducing a more contemporary external appearance. It is considered that the design of the house is of an acceptable standard for this location and, whilst it will not mirror that of the existing houses, it is not considered to be significantly out of keeping with the character of these houses.
- 8.11 Given the size of the garden ground associated with 17 Marine Park the proposed additional house can be sited in such a manner that it will continue the staggered pattern of houses created by Nos 21-24. This will be similar to the other houses in Marine Park. Although it may sit forward of Nos 18 and 21, it will be located behind the building line of No 20.
- 8.12 It is concluded, on balance, that the proposal accords with the established pattern and character of development and therefore it will not have a significant impact on

the collective residential amenity of Marine Park.

- 8.13 As regards the individual amenity of the houses which share a boundary with the application site, and also that of 21 Marine Park which lies to the east of the site, it is considered that the property on which the impact of development will be greatest is 17 Marine Park. The construction of a house directly in front of this property will reduce the level of amenity that this property currently enjoys. The property will lose the benefits of the large garden and open views to the south. Given the physical relationship that will result from the development the applicant was required to demonstrate that the development proposal will not result in significant overlooking between the two properties. The site section submitted indicates that due to the change in ground level, the design of the new house and the proposal to introduce a 2m high screen fence with planting on the boundary between the two properties, there will be no direct overlooking of habitable windows between the properties. Due to the elevated position of 17 Marine Park, this property will also retain a degree of openness which goes some way towards mitigating the impact of building directly in front of the house.
- With respect to 18 Marine Park which also shares a boundary with the application 8.14 site and lies to the west of the site, the layout of this house plot is very similar to the existing layout of 17 Marine Park. The garden ground which lies to the front of the property is open to public view and therefore benefits from little privacy. The erection of a house on the neighbouring ground will not significantly reduce the existing level of amenity given the openness of the front garden area. Comment has been made that this house will be hemmed in by houses on either side which will be sited in front of the property. It is acknowledged that the existing open aspect to the east as viewed from the front of the this property and also No 19 Marine Park will be affected by the development, however the loss of a view across private garden ground in separate ownership, is not a reason to withhold planning permission. The variation to the original submission which has resulted in the garage being located on the western gable of the new house results in the larger gable and higher ridge height of the house being set further back from the boundary of No 18 than originally proposed. This amendment is welcomed and will improve the relationship between the two properties, particularly in relation to overshadowing and the sense of openness at the front of No 18.
- 8.15 The erection of fencing along the section of the boundary which will separate the front garden of 18 Marine Park from the rear garden of the proposed development will ensure that overlooking of the garden associated with the new house is restricted from the front garden of No 18.
- 8.16 With respect to the overlooking of the front windows of No 19 Marine Park it is not considered that there will be a significant loss of privacy or daylight due to the distance of 16 metres, or thereby, between the two properties. The proposed house is sitting forward of the frontage of No 19 Marine Park with the principle windows facing south across the front garden, the shore road and the Beauly Firth.
- 8.17 As regards the impact on the house to the east of the site, 21 Marine Park, there are no windows in the eastern gable of the new house that would result in a loss of privacy. Comment has been made that there will be a loss of daylight to the window on the western gable of 21 Marine Park, given the position of the proposed

house on the plot and the distance between the two properties, which is 12.7 metres, or thereby. In this context it is not considered that there will be a significant loss of daylight. The applicant has provided a shadow analysis which confirms that shadowing would affect this property and the other surrounding properties for a short period of time during mid winter. At all other times of year shadow would not fall across the windows of these neighbouring properties.

- 8.18 It is concluded, on balance, that the impact of the proposed development on the individual residential amenity of the neighbouring properties is not sufficiently detrimental to justify refusal of the application.
- 8.19 The development proposal includes the formation of a vehicular access directly from the shore road. Concern has been expressed by third parties and the Community Council regarding the principle of allowing an individual access onto the shore road, in terms of the precedent it would establish, and also the safety for road users and pedestrians due to the addition of an access at this location.
- 8.20 In order to overcome initial concerns raised by TEC Services (Roads), the Planning Service and comments from third parties, the applicant was required to demonstrate that three vehicles would be able to park and manoeuvre within the site. This level of parking along with the provision of a service bay was considered necessary to ensure the maintenance of free flowing traffic on the road in both directions. Given the size of the plot the required level of in curtilage parking and turning can be provided. There is also sufficient room within the road verge to provide a service layby. TEC Services (Roads) are satisfied with the access, parking and turning areas proposed and therefore the development is judged to be acceptable in terms of road traffic and pedestrian safety. The construction of the access and the service layby will require a further approval under the Roads (Scotland) Act. The design of the access and service bay will require to meet current Roads Authority standards which will include the provision of dropped kerbs, as and where necessary, thus ensuring that the access and service bay is designed to take account of pedestrian safety. Objectors made reference to the proposed individual access being located in an unsafe area and out of keeping with the shared access road arrangement prevalent in the area whereby the accesses off the shore road serve a number houses. However, as stated above, TEC Services (Roads) are satisfied with the access proposals.
- 8.21 It is acknowledged that the requirements for parking will result in the majority of the front garden area being turned over to parking and therefore careful attention will be required to ensure that the landscaping and boundary treatment do not detract from the general amenity and character of the area. Comment has been made that the formation of a large parking area will lead to further surface water running onto the public road. It is a statutory requirement that surface water run off from new development is dealt with on site (Sustainable Urban Drainage Systems). The use of porous materials within the parking area or the provision of a cut off drain will be necessary to satisfy this requirement. This matter will be dealt with through the Roads (Scotland) Act and details of the hard and soft landscaping will require to be the subject of further approval by the Planning Authority.
- 8.22 As the site lies close to the 1:200 year flood risk area the Scottish Environmental Protection Agency (SEPA) were a statutory consultee. The information submitted

with the application indicated that a ground floor level (GFL) of 4.40m AOD is proposed. SEPA confirmed that this level is sufficient to account for the expected 1 in 200 year water level plus a standard allowance for freeboard. No objections were made through the consultation process. The development is considered to comply with the terms of Policy 64 (Flood Risk) of the Highland wide Local Development Plan.

8.23 **Other Considerations – not material**

- 8.24 Comment has been made by third parties that the land was originally set out as an area of landscaping/open space at the time the housing estate was developed and that subsequently the land, along with another portion of land to the west, was sold to the owners of 17 and 18 Marine Park with a restriction on what could be built. It is acknowledged that there may well have been an intention in the original masterplan for the housing layout that the area of ground which forms the application site was to be part of an area of communal open space, as this would appear to follow the pattern of development to the west, at 10 Marine Park. However, the site is not in communal ownership and is therefore not a community resource. In addition any restrictions on the title deeds of the property are a civil matter and not a material consideration in the determination of an application for planning permission. The application submitted has to be considered on its merits within the current context whereby the site is private garden ground and the matter of any title restrictions are not a material planning consideration.
- 8.25 The applicant has suggested that there was an intention in the original masterplan to build a house in this location. No evidence has been submitted to justify this claim.
- 8.26 Concern has also been expressed regarding the impact that the development will have on the property values of houses in the vicinity. The perceived loss of property value is not a matter for consideration in the determination of a planning application.

8.27 Matters to be secured by Section 75 Agreement

8.28 None

9. CONCLUSION

- 9.1 The initial pre-application advice given by the Planning Service did not offer support for sub dividing the garden ground and erecting a house. This was due to concerns about the proposed access arrangements and also the impact that the development would have on the amenity of other houses in the area, in particular the existing house No 17 Marine Park.
- 9.2 It is acknowledged that the applicant has been able to address the issues which were raised at the pre-application stage and others which arose during the planning process. It is concluded that there are insufficient reasons to justify refusal of the application and therefore, on balance, the proposed development is recommended for approval.
- 9.3 All relevant matters have been taken into account when appraising this application.

It is considered that the proposal accords with the principles and policies contained within the Development Plan and is, on balance, acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued N

Subject to the above, it is recommended the application be GRANTED subject to the following conditions and reasons / notes to applicant:

1. Prior to commencement of the construction of the house hereby approved the site access shall be constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated May 2011), with:

i. the junction formed to comply with drawing ref. SDB 2; including the surfacing of the first 8 metres of the driveway, and

ii. visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

Reason : To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

2. No development shall commence until details of the bin storage area have been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented prior to the first use of the development and thereafter maintained in perpetuity.

Reason: To ensure that suitable provision is made for the storage of waste and recycling bins.

3. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

Reason : In order to enable the planning authority to consider this matter(s) in detail prior to the commencement of development; in the interests of amenity.

4. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

i. All earthworks and existing and finished ground levels in relation to the identified fixed datum point as shown on Drawing No SK020;

- ii. A plan showing existing landscaping features and vegetation to be retained;
- iii. The location and design, including materials, of all proposed walls, fences

and gates. Any gates shall be sited at least 8 m back from the public road and shall open inwards, in the interests of road traffic and pedestrian safety;

iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities. This shall include soft landscaping in the front garden area to complement adjacent houses; and

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason : In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site

5. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref.PL21 shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

Reason : In order to ensure that the level of off-street parking is adequate to ensure the safety and free flow of traffic on the public road

6. The finished ground floor level of the house shall be 4.40m AOD.

Reason: To protect the residents and the habitable parts of the house from the potential risk of flooding.

7. Notwithstanding the provisions of Article 3 and Class(es) 1A and 1B of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development of a type identified in the aforementioned classes shall take place without planning permission being granted on application to the Planning Authority.

Reason: To allow the impact on any extension on the rear of the property to be assessed by the Planning Authority in the interest of the residential amenity of the area.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Hard surface within curtilage of property

Any hard surface located between the dwellinghouse and the road must be constructed of a porous material or provision must be made for surface water run off to be directed to a porous area within the curtilage of the dwellinghouse. The Department of Communities and local Government has produced separate guidance on permeable paving. This can be found at; www.communities.gov.uk/documents/planning and building/pdf/pavingfrontgardnes.pdf.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <u>http://www.highland.gov.uk/yourenvironment/roadsandtransport</u>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationfo rmsforroadoccupation.htm

Mud & Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Building on the Boundary

It is noted that your proposals involve building on or up to the boundary of your property. Please be advised that this permission does not entitle you to build on, under or over ground outwith your ownership or to enter private ground to demolish, construct or maintain your property. You must ensure that all development, including foundations, roof overhangs and rainwater goods are contained wholly within your own ground, unless you have the agreement of any neighbouring landowner for any works which encroach on their property.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take

place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

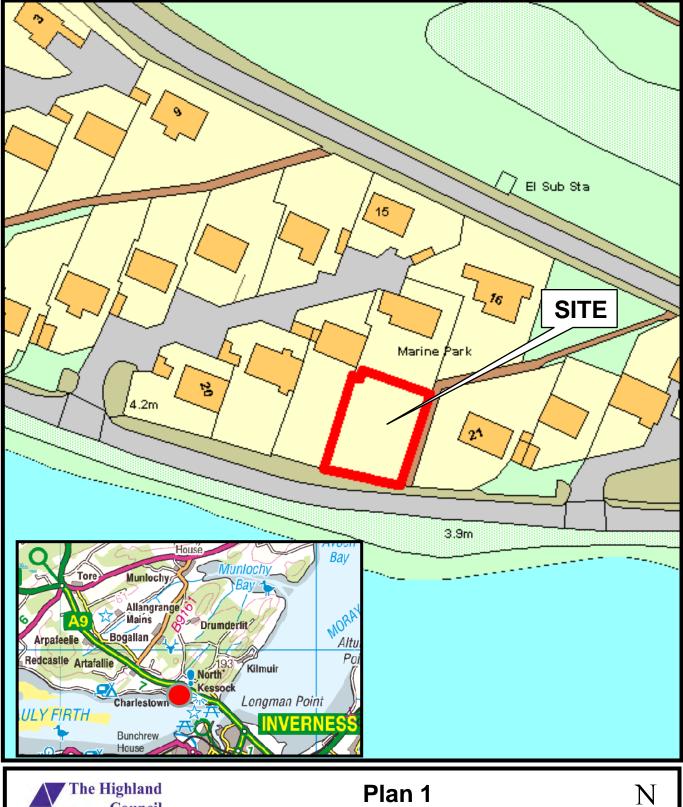
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Signature:

Designation:	Area Planning Manager North			
Author:	Erica McArthur			
Background Papers:	Documents referred to in report and in case file.			
Relevant Plans:	Plan 1 –Location Plan			
	Plan 2 – Site Plan			
	Plan 3 – Elevations and Sections			

Appendix – Letters of Representation

Name	Address	Date Received	For/ Against
Owen P Smith	3 Mill Crescent, North Kessock, IV1 3XY	15/11/2013	Against
Mr Joseph Lindsay	Balquhidder, Main Street, North Kessock,IV1 3XN	15/11/2013	Against
Mr W And Mrs C Cumming	19 Marine Park, North Kessock,Inverness,IV1 3XS	15/11/2013	Against
Mrs Kathleen MacFarquhar	21 Marine Park, North Kessock,Inverness,IV1 3XS	14/11/2013	Against
Elaine & Peter Jones	18 Marine Park, North Kessock,Inverness,IV1 3XS	15/11/2013	Against
Mr And Mrs D Livingstone	16 Marine Park, North Kessock,Inverness,IV1 3XS,	14/11/2013	Against
Petition	12 separate addresses	18/11/2013	Against



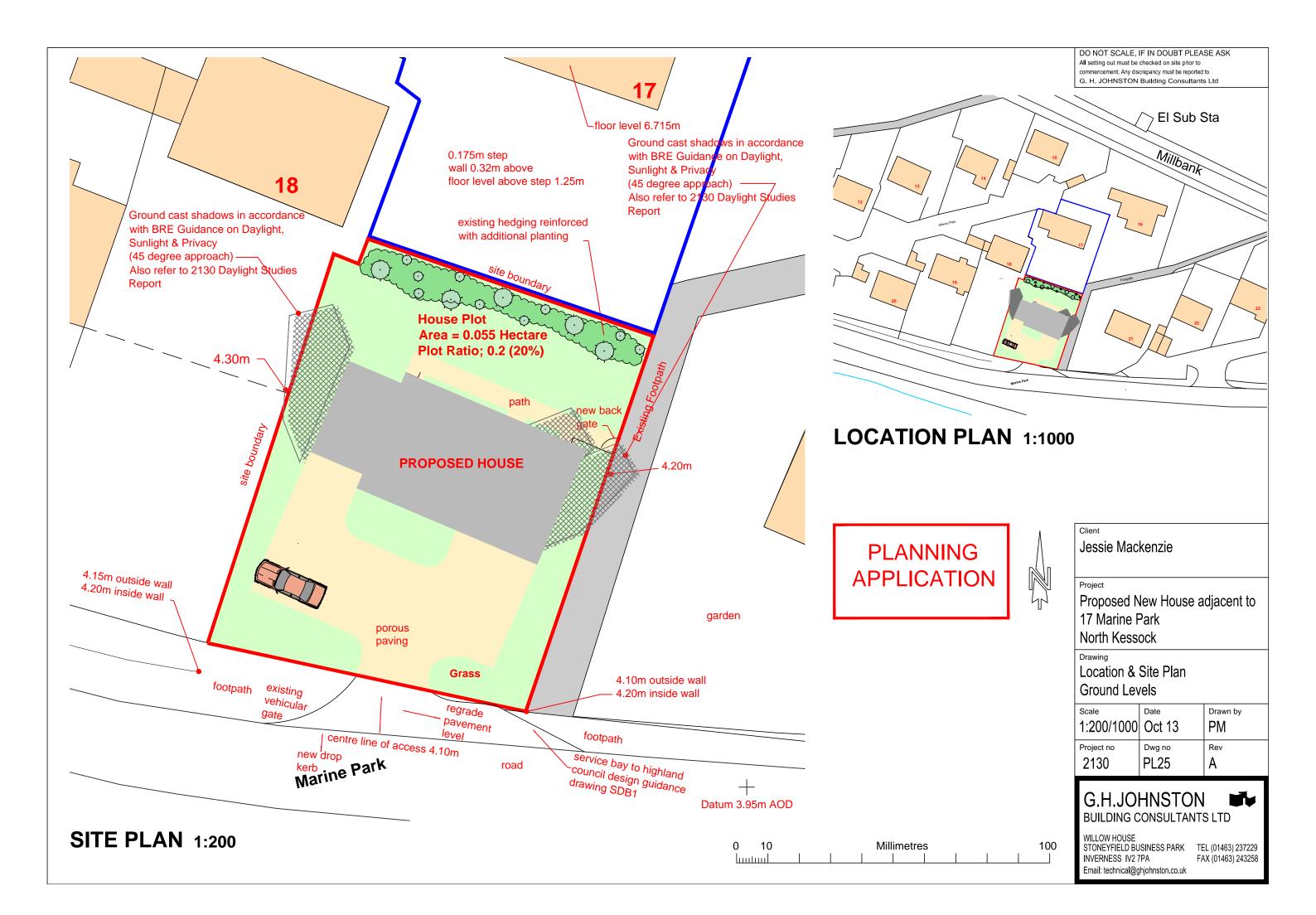


Plan 1 13/03989/FUL Erection of house at

Land South of 17 Marine Park, North

18 February 2014







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