

**THE HIGHLAND COUNCIL**

**NORTH PLANNING APPLICATIONS COMMITTEE**  
**4 August 2015**

Agenda Item	<b>5.2</b>
Report No	<b>PLN/039/15</b>

**14/00016/FUL : Mr Brian Elias**  
**Land to North East of Glen View, High Street, Conon Bridge**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Erection of 3 houses

**Recommendation - REFUSE**

**Ward :** 09, Dingwall and Seaforth

**Development category :** Local Development

**Pre-determination hearing :** Not required

**Reason referred to Committee :** Manager's discretion.

**1. PROPOSED DEVELOPMENT**

- 1.1 The proposal is to erect three detached two bedroomed single storey houses. A new access will be formed off Riverbank Road and a communal parking court with 6 spaces formed. A pedestrian path will lead from the parking court to each of the houses.
- 1.2 The applicant sought pre-application advice prior to submitting this application which was generally supportive of the principle of residential development.
- 1.3 The applicant has submitted supporting information in relation to flood risk, and construction notes in relation to specifications for the access and parking areas.
- 1.4 **Variations:** The application has been amended to reduce the number of units from 4 to 3, to retain some of the existing trees within the site and remove some of the treed area from the site, thereby reducing the site area.

**2. SITE DESCRIPTION**

- 2.1 The site is currently disused and overgrown in nature. It is fairly level, but set down below Riverbank Road, with a steep embankment up to this road to the southeast. There are a number of trees in the north east and south east corners.

There are existing 2 storey semi-detached houses along the opposite side of Riverbank Road. The rear gardens of houses on High Street back onto the south west boundary of the site, and a field lies to the rear (North West).

### 3. PLANNING HISTORY

3.1 04/00775/OUTRC – Erection of house (outline) and formation of car parking spaces - Approved 26/08/05

07/00780/OUTRC – Erection of four 2 bedroomed flats - Refused 20/12/07

08/00727/FULRC – Erection of house (detail) - Approved 02/02/10

### 4. PUBLIC PARTICIPATION

4.1 Advertised : Neighbour

Representation deadline : 07/02/14 and 27/03/15

Timeous representations : 1 petition (9 signatures) received to the original proposal. No representations received in relation to the re-notification following the receipt of the amended scheme.

4.2 Material considerations raised are summarised as follows:

- Unsuitable entrance/exit will cause disruption to existing householders opposite.
- Site is regularly flooded – it lies on the old riverbed and the water table is close to the ground level.

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

### 5. CONSULTATIONS

5.1 **Forestry** : No objection to amended plans, subject to conditions.

5.2 **Transport Planning** : No objection; conditions required.

5.3 **Flood Management Team** : **Object** – There is insufficient freeboard on the River Conon flood defences, and insufficient information regarding surface water flooding.

5.4 **Planning Gain Officer** : No objection. The application has been amended to 3 houses. There is no longer an affordable housing or public art requirement.

5.5 **Housing** : No objection.

5.6 **Scottish Water** : No objection.

5.7 **SEPA** : **Object** – the development may place buildings and persons at flood risk contrary to SPP and PAN 69. Concerns relate to risk of flooding from the River Conon. The Conon Flood Protection Scheme does not meet the standard required for a 1:200 year event. Infilling the site to raise ground levels would reduce the capacity of the flood plain. Flood protection measures, such as the

Conon Flood Protection Scheme, are designed to protect against a specified height of water. They can reduce the probability of flooding but cannot eliminate it entirely. Areas behind flood defences are still susceptible to risk of flooding if a flood larger than the design event occurs, if the defences fail or are overtopped, and if the standard of protection degrades over time. In cases where structures are overtopped or fail, areas behind them are at greater risk as sudden and rapid inundation can occur, with extremely high velocities and forces. This is why SEPA advise against putting new development on previously undeveloped areas behind Flood Protection Schemes. The River Conon Flood Protection Scheme has a low point between the road bridge and the railway bridge, where there is insufficient freeboard allowance. It is considered to offer an adequate 1:100 year standard of protection (as it was designed to) but not a 1:200 year standard of protection (current requirements).

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

28	Sustainable design
29	Design quality and place making
30	Physical constraints
34	Settlement development areas
64	Flood risk

### **6.2 Inner Moray Firth Local Development Plan 2015**

Within settlement development area; no site specific policies.

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

Not applicable

### **7.2 Highland Council Supplementary Planning Policy Guidance**

Physical Constraints – adopted March 2013

Flood Risk and Drainage Impact Assessment – adopted January 2013

### **7.3 Scottish Government Planning Policy and Guidance**

Scottish Planning Policy - 2014

Guidance on Flood Risk - 2015 (superceded PAN 69 – Planning and Building Standards Guidance on Flooding)

## **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**

#### **8.3.1 Flood Risk**

Scottish Planning Policy (SPP) (para 40) promotes a sustainable pattern of development appropriate to an area, and recommends that brownfield land is re-developed before new development takes place on greenfield sites. With regard to flood risk (para 263), sites falling within medium to high risk categories within built up areas may be suitable for residential development provided flood protection measures to the appropriate standard already exist. Additional development is not appropriate in undeveloped and sparsely developed areas (unless the location is essential for operational reasons).

8.3.2 This site comprises previously undeveloped land (greenfield site) and lies within an area identified as at medium to high risk of flooding in the SEPA Flood Map (revised January 2014 and March 2015). Furthermore, the flood defences for the River Conon were designed to offer protection for a 1:100 year flood event (to include a 0.55m freeboard), whereas current standards require a 1:200 year standard of protection. Therefore SEPA object to the proposal since it would result in extra buildings and additional population being exposed to flood risk. They point out that flood prevention schemes are designed to reduce flood risk to existing areas of development where the probability of flooding is otherwise unacceptably high. The purpose of schemes is not to enable new development.

8.3.3 The applicant has disputed the adequacy of the flood protection measures; he also questions why the Pescanova site can be redeveloped for 72 houses when his proposal for a much smaller scheme (4 houses, now reduced to 3 houses) is being opposed on flood risk grounds. He considers that the flood protection measures in place for Conon Bridge meet the criteria for 1:200 year flood risk with a 250mm freeboard.

8.3.4 The freeboard allowance is required to account for a number of factors including the uncertainties of estimating flood flows, estimating flood levels from those expected flow rates, other physical factors such as turbulence, wave action, erosion and settlement of the flood embankments.

8.3.5 Freeboard allowances are usually between 500 - 600mm but can be much higher where local conditions indicate that some of the factors which have to be accounted for by freeboard are at a higher risk. SEPA and the Council's Flood

Risk Management Team both consider that a 250mm freeboard is insufficient at this site. The flood protection measures comply with a 1 in 100 year flood risk event with a 550mm freeboard allowance.

- 8.3.6 The main source of uncertainty on the River Conon results from the estimation of flood flows. The catchment is influenced by hydro electricity generation activities and therefore cannot be compared with similar catchments elsewhere. Usually data from other similar catchments is used to supplement data from the study catchment, but due to the hydro electricity generation activities, data from elsewhere cannot be used. The estimation of flows is therefore completely reliant on the data held for the actual catchment. There are 38 years of gauged data from the Moy Bridge gauging station. In order to calculate the 1 in 200 year flow with any degree of certainty, 500 years of data would be required. Therefore, estimating the 200 year flow from just 38 years of data requires some caution and a degree of safety to be incorporated, hence the need for an appropriate allowance for freeboard.
- 8.3.7 The Council's adopted Supplementary Guidance - Physical Constraints, identifies flood risk areas as a constraint. Policy 30 of the Highland-wide Local Development Plan requires developers to demonstrate compatibility with the constraint or to outline appropriate mitigation measures to be provided, and to ensure that proposed developments do not adversely affect human health and safety.
- 8.3.8 The Council's adopted Supplementary Guidance - Flood Risk and Drainage Impact Assessment seeks to ensure that development takes place in appropriate locations free from unacceptable flood risk and not liable to exacerbate flood risk elsewhere. Development should avoid areas susceptible to flooding and promote sustainable flood management. Proposals within or bordering medium to high flood risk areas will need to demonstrate compliance with SPP through the submission of suitable information which may take the form of a flood risk assessment. (Policy 65 of the Highland-wide Local Development Plan). In line with SPP, all new development needs to be free from unacceptable flood risk for all flood events up to the 1 in 200 year return period.
- 8.3.9 The applicant has accordingly carried out a flood risk assessment in support of his proposals. SEPA have accepted the adequacy of the assessment, but consider that insufficient flood protection measures exist to enable this proposal to go ahead.
- 8.3.10 The potential of the site to flood from the Eil Burn also needs to be assessed. The Council's Flood Risk Management Team request further information on ground levels on the site and the surrounding land to confirm that the site is elevated above the ground that is predicted to flood from the Eil Burn. The site also lies within the Medium Risk flood outline for surface water flooding, and further information is required to demonstrate that the site is not at risk of flooding from this source. Furthermore, percolation tests will be required to demonstrate that underlying ground conditions are suitable for draining surface water via infiltration,

in accordance with the proposals. Calculations and designs are also required to demonstrate that a 200 year rainfall event can be contained within the site boundary.

8.3.11 A letter signed by 9 residents of Riverbank Road objects to the application on the grounds that the site is located on the old riverbed and is regularly flooded, and the water table is near ground level. Currently, there is insufficient information in respect of surface water flooding and an insufficient freeboard on the River Conon defences to adequately protect the site from flood risk.

8.3.12 Policy 28 - Sustainable Design - assesses development against a number of criteria, one of which is whether it is affected by physical constraints as described in the Physical Constraints Supplementary Guidance. This includes areas with an annual probability of flooding of 0.5% or greater (1 in 200 year return period flood extent). Policy 30 - Physical Constraints - also requires development which is affected by any of these constraints to demonstrate compatibility with the constraint or outline appropriate mitigation.

8.3.13 The site lies within a 1 in 200 year return period flood extent, and the proposal will put additional property and people at risk of flooding since there is inadequate freeboard to the River Conon flood protection measures. Residential use is not a compatible use for areas identified as being at medium to high risk of flooding.

#### 8.3.14 **Trees**

The application has been amended to 3 houses in order to facilitate the retention of the trees to the south west of the site, near the end of Henderson Crescent. Although they are not of note individually, collectively they contribute to the street scene and add to the sense of place, and their retention is welcomed. Forestry have now withdrawn their objection, but request conditions to secure the retention of these trees.

#### 8.3.15 **Layout**

The proposed houses on Plots 2 and 3 have their main elevation towards Riverbank road. The access to the site leads to a parking court for all of the proposed houses, which is sited between Plot 1 and Plot 2. Plot 1 has been orientated to face the parking court, with its gable towards Riverbank Road. The houses are all single storey two bedroomed properties, and the layout facilitates passive surveillance of the communal space/car parking whilst maintaining a relationship with Riverbank Road.

8.3.16 Plots 2 and 3 have rear gardens of approximately 7.5m in length, with a screen fence to the rear boundary. Although this is less than the proportions normally expected from a rear garden, given the small size of house and use of the land to the rear as a field, in this instance this is considered satisfactory. The single storey height of the houses and a screen boundary fence will guard against potential overlooking of the land to the rear, and enable the houses to be satisfactorily absorbed into the site.

8.3.17 Plot 1 has a blank gable towards the rear site boundary. Although it is only approximately 2m from this boundary, in this instance it is unlikely to raise issues of massing or overlooking. Similarly, Plot 1 is located only 1.5m from the side boundary (with the rear gardens to houses on High Street). A screen boundary fence is proposed which will help protect the privacy of these properties. The rear gardens to the houses on High Street are of a substantial length, and there are assorted outbuildings close to the boundary with the site, which will also help to preserve amenity. The house on Plot 1 is also designed with only one secondary window in the rear elevation towards the garden grounds of the houses on High Street, and the main lounge window/patio doors opening onto the garden grounds between the Plot 1 house and Riverbank Road, which will give a pleasing aspect to the occupiers of this house.

### 8.3.18 **Design**

The houses themselves are small 2 bedroomed single storey units which will be unobtrusive in the street scene, and integrate in a satisfactory manner with the larger houses on the opposite side of Riverbank Road.

8.3.18 Policy 29, design quality and place making, seeks development that respects local distinctiveness and demonstrates sensitive design and layout and contributes to place-making. The application has been submitted in full and the layout, design, and access comply with Policy 29. Had the application been recommended for approval given the restricted plot sizes it would have been appropriate to have removed the permitted development rights in this instance.

### 8.4 **Material Considerations**

A letter of representation was received from the residents of Riverbank Road (9 signatures), raising objections to the original proposal. No comments were received following the submission of amended plans. One of the grounds for objection was that the entrance/exit to the site was unsuitable and would result in disruption to householders directly opposite the proposed access. The access point has now been moved further northeast along Riverbank Road, but is still opposite some of the existing houses.

Transport Planning have been consulted, and raise no objections to the proposal. They do, however, request conditions to ensure that the site access, junction and visibility comply with guidance, a suitable bin collection point is provided, cycle storage/parking is provided, and details of any additional street lighting is agreed.

Application 08/00727/FULRC was previously approved on 02/02/10 for the erection of a single house on this site. Flood risk was taken into account, and it was considered at that time that the 1 in 100 year flood protection banks to the River Conon afforded adequate flood risk protection. However, this precedes the current SPP, the latest Scottish Government Guidance on Flood Risk, the Council's Supplementary Guidance - Flood Risk and Drainage Impact Assessment and the latest guidance from SEPA which now requires a 1 in 200 year standard of flood protection and advises against placing additional persons/property at risk of flooding.

## 8.5 Matters to be secured by Section 75 Agreement

None

## 9. CONCLUSION

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

As the site lies within a 1 in 200 year return period flood extent, and the proposal will put additional property and people at risk of flooding since there is inadequate freeboard to the River Conon flood protection measures. Residential use is not a compatible use for areas identified as being at medium to high risk of flooding.

## 10. RECOMMENDATION

**Action required before decision N issued**

**Subject to the above**, it is recommended the application be **refused** for the following reasons:

1. The proposal lies within an area which is afforded protection from flooding by the River Conon for a 1 in 100 year flood event, whereas current standards require protection from a 1 in 200 year flood event. Therefore, the proposal places buildings and persons at risk from flooding, contrary to Scottish Planning Policy, PAN 69, Policy 28, 30, and 64 of the Highland wide Local Development Plan, and the Highland Council's Supplementary Guidance - Flood Risk and Drainage Impact Assessment.
2. Insufficient information exists to demonstrate that the site is not at risk of flooding from surface water, contrary to the Council's Supplementary Guidance Flood Risk and Drainage Impact Assessment, and contrary to the provisions of Policy 64 of the Highland wide Local Development Plan.

Signature: Dafydd Jones

Designation: Area Planning Manager North

Author: Susan Hadfield

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 – site location plan

Plan 2 – site layout plan

Plan 3 – elevation / floor plan house type 1

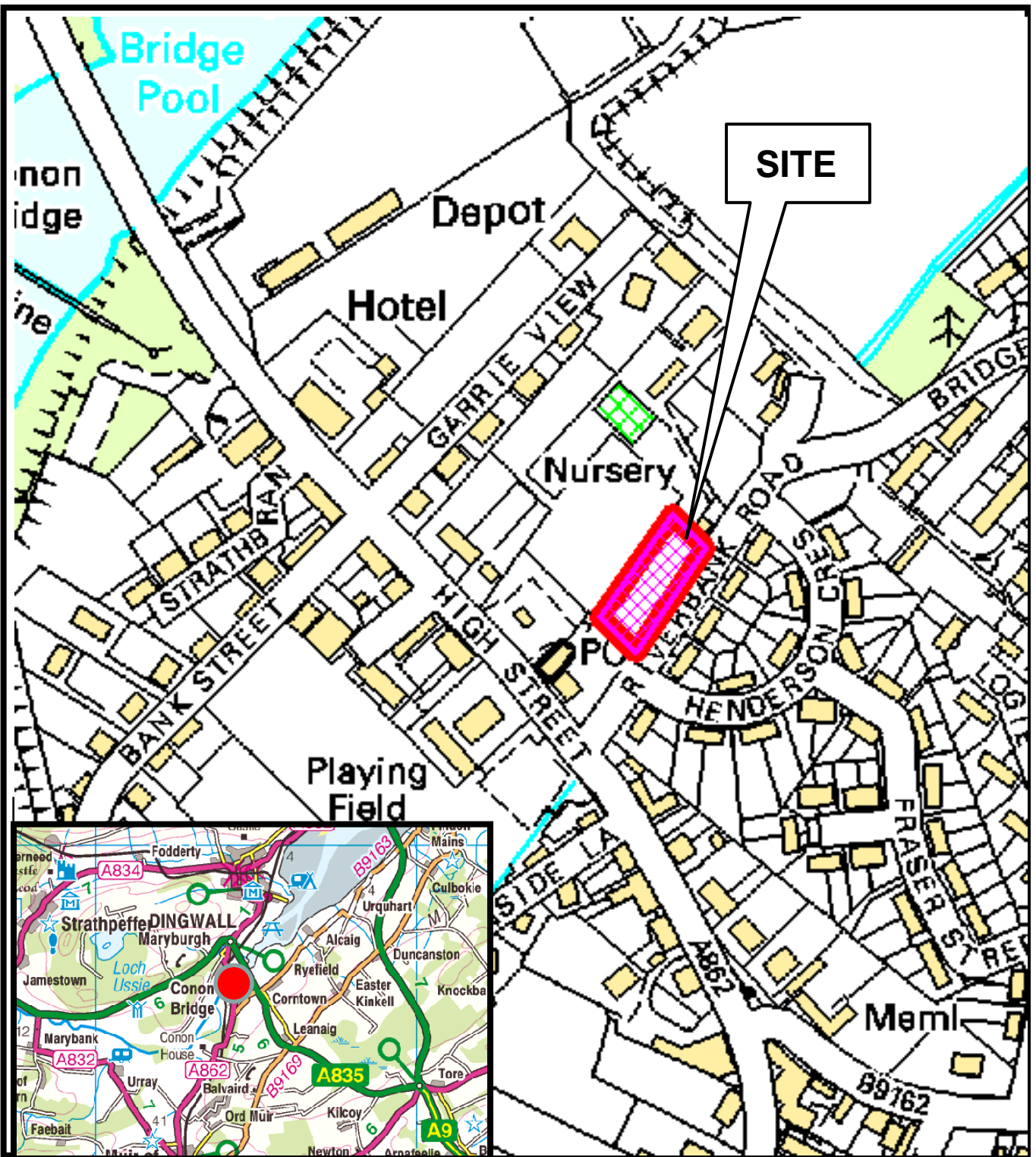
Plan 4 – elevation / floor plan house type 2

Plan 5 – extract from SEPA flood map



## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
The Residents	Riverbank Road, Conon Bridge IV7 8BT	30/01/14	Against

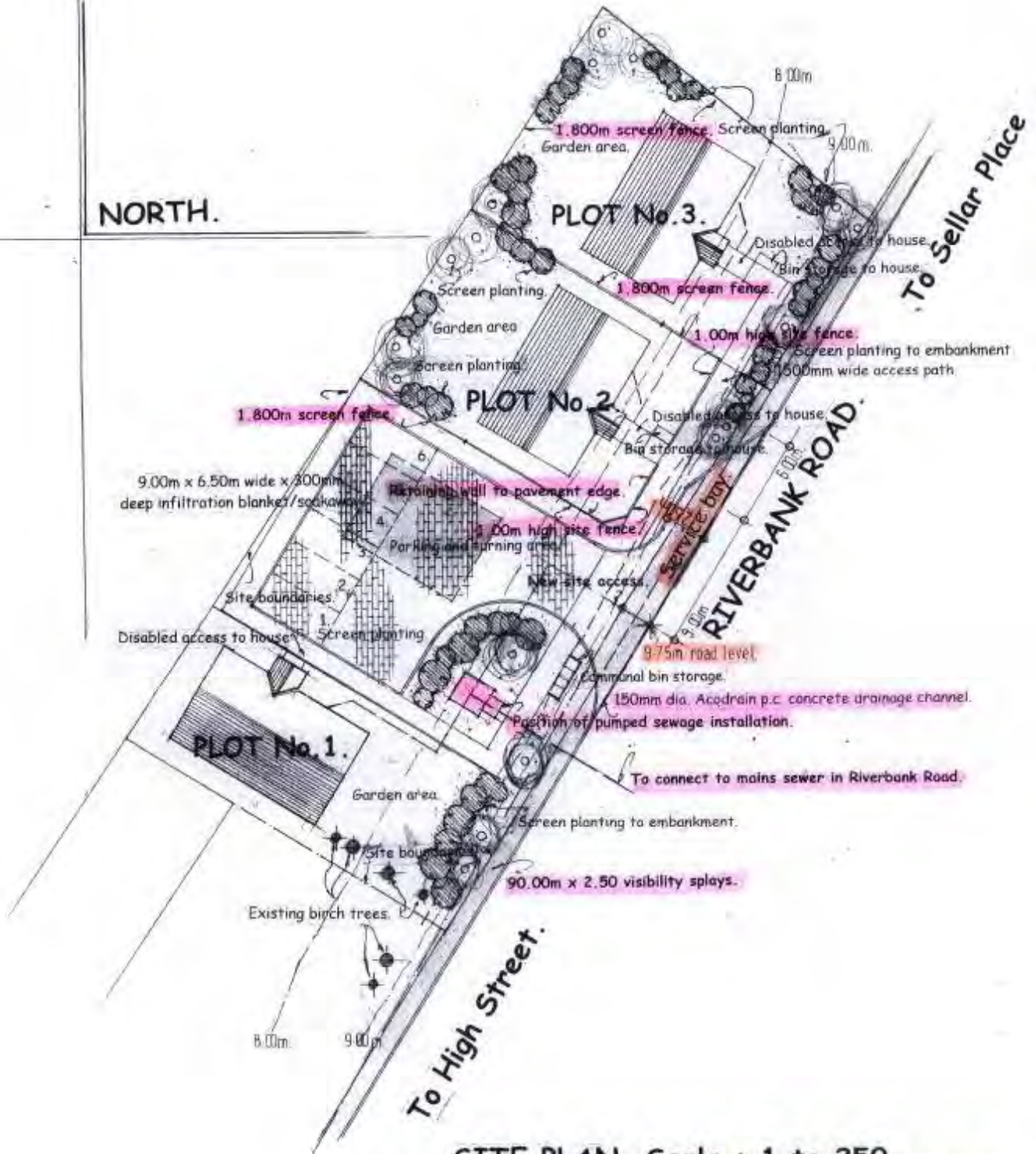


Planning & Development  
Service

**14/00016/FUL**  
Erection of three houses at  
Land to North East of Glen View,  
High Street, Conon Bridge  
**04 August 2015**



NORTH.



**SITE PLAN. Scale : 1 to 250.**

**AMENDMENT 1 :** Position of house on Plot 1 altered, mains sewerage amended to pumped sewage installation connected to main sewer in Riverbank Road and screen fencing amended per Planning Dept. requirements. May, 2015.

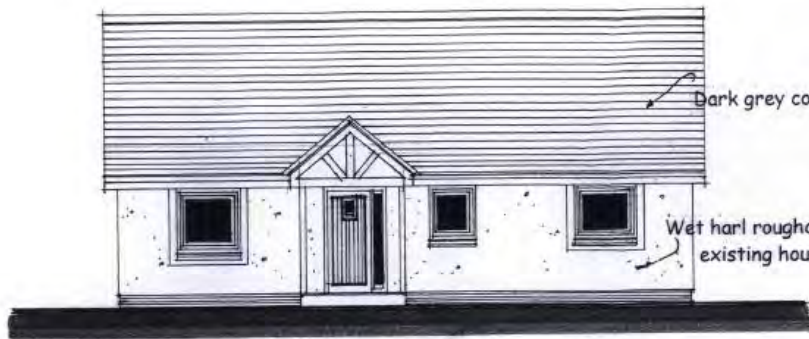
**GENERAL NOTES**

- 1.) Written sizes to take preference over scaled sizes.
- 2.) Large scale details to take preference over small scale details.
- 3.) All dimensions to be checked on site.
- 4.) Any discrepancies to be referred to this office for decision.

RECEIVED  
18 MAY 2015

Title: CONON BRIDGE : Proposed house development at site, Riverbank Road for B. G. Elias.	Scale : 1 to 250. Date: Feb., 2015. Drawn: R. Morrison
Drawing: Revised sketch layout. Sheet No.1.	No: C.1.13.03A.

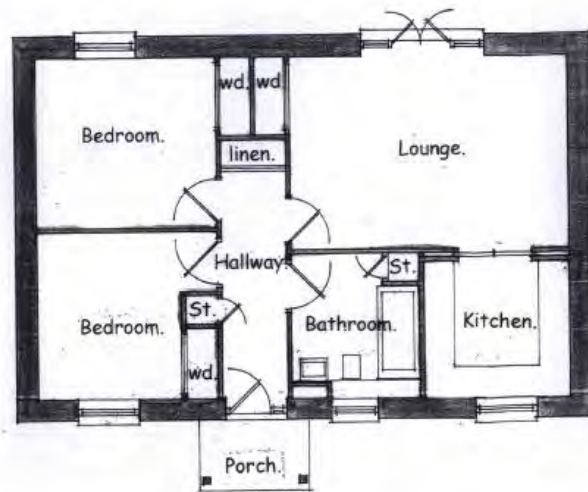
R. M. MORRISON, ARCHITECTURAL DRAWING SERVICE,  
Victoria Villa, Conon-Bridge, Dingwall, Ross-shire. IV7 8HA  
TEL & FAX: 01349 861458



**ENTRANCE ELEVATION.**



**REAR ELEVATION.**



**FLOOR PLAN. HOUSE TYPE 1.**



**GABLE ELEVATION.**

**GENERAL NOTES**

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- 2.) Large scale details to take preference over small scale details.
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**RECEIVED**  
11 8 MAY 2015

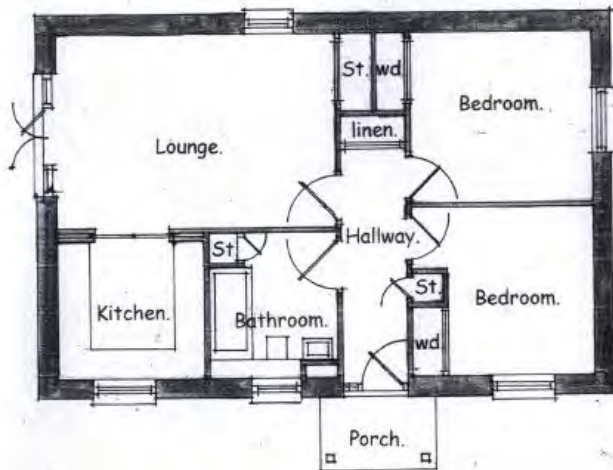
Title: CONON BRIDGE : Proposed house development at site, Riverbank Road for B. G. Elias.		Scale : 1 to 100.
Drawing: Sketch proposal for house. Type No.1.		Date: Dec., 2013.
R. M. MORRISON. ARCHITECTURAL DRAWING SERVICE.		Drawn: R. Morrison
Victoria Villa, Conon-Bridge, Dingwall, Ross-shire. IV7 8HA		No: C.1.13.05.
TEL & FAX: 01349 861458.		



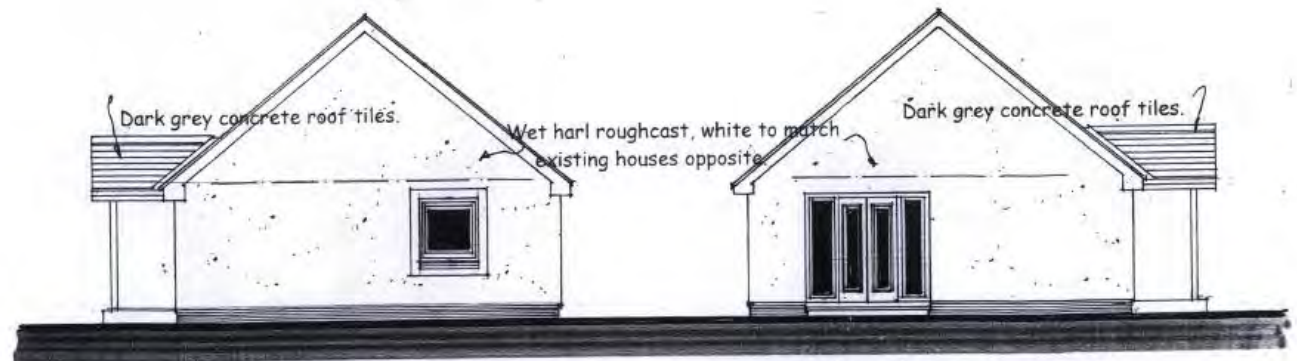
**ENTRANCE ELEVATION.**



**REAR ELEVATION.**



**FLOOR PLAN. HOUSE TYPE 2.**



**GABLE ELEVATION.**

**GABLE ELEVATION.**

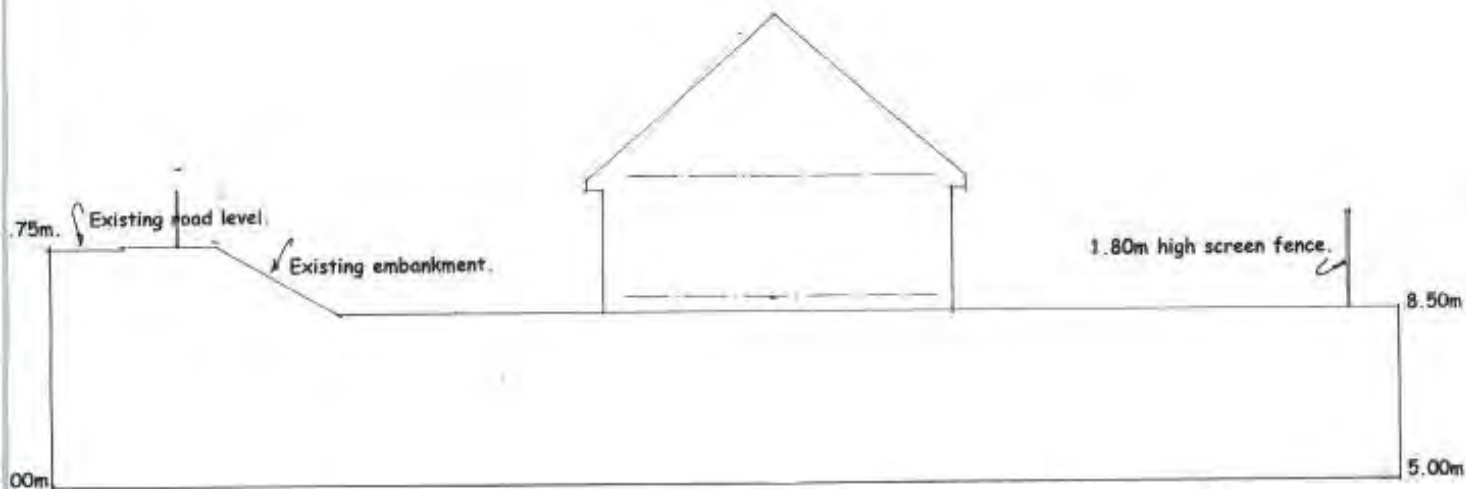
**GENERAL NOTES**

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**RECEIVED**

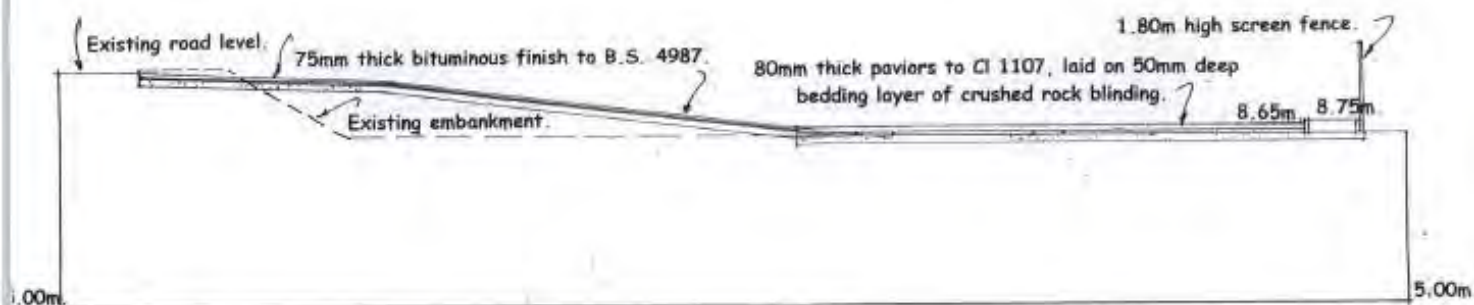
**18 MAY 2015**

Title: CONON BRIDGE : Proposed house development at site, Riverbank Road for B. G. Elias.		Scale : 1 to 100.
Drawing: Sketch proposal for house. Type No.2.		Date: Feb., 2015.
R. M. MORRISON. ARCHITECTURAL DRAWING SERVICE.		Drawn: R. Morrison
Victoria Villa, Conon-Bridge, Dingwall, Ross-shire. IV7 8HA		No: C.1.13.06.
TEL & FAX: 01349 861458.		



**SECTION THROUGH HOUSE PLOT.**

Scale : 1 to 100.



**SECTION THROUGH ACCESS & PARKING.**

Scale : 1 to 100.

**GENERAL NOTES**

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- 2.) Large scale details to take preference over small scale details.
- 3.) All dimensions to be checked on site.
- 4.) Any discrepancies to be referred to this office for decision.

RECEIVED  
MAY 2015

Title: CONON BRIDGE : Proposed house development at site, Riverbank Road for B. G. Elias.		Scale : 1 to 100.
		Date: May, 2015.
Drawing:	Site cross sections.	Drawn: R. Morrison
		No: C.1.13.07.
R. M. MORRISON, ARCHITECTURAL DRAWING SERVICE.		
Victoria Villa, Conon-Bridge, Dingwall, Ross-shire. IV7 8HA		

