

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE  
29 September 2015**

Agenda Item	7.5
Report No	PLS/073/15

**15/00590/MSC: Mr Peter Gibson  
Land North Of Birchwood, Belivat**

**Report by Area Planning Manager - South**

**SUMMARY**

**Description :** Proposed new dwelling

**Recommendation - APPROVE**

**Ward :** 19 - Nairn

**Development category :** Local Development

**Pre-determination hearing :** n/a

**Reason referred to Committee :** 5 or more timeous representations.

**1. PROPOSED DEVELOPMENT**

1.1 The application is for the approval of matters specified in conditions of the planning permission in principle granted by the Review Body on 11 April 2012. The proposal is for the erection of a 1¾ storey house with associated access and drainage arrangements at Belivat. The site lies within Belivat on land between two existing properties north of Birchwood and south of Silver Spring with Woodend adjacent to the west across the public road.

The proposed vehicular access and layby is from the adjacent public road and will comprise a service bay and sightlines of 2.4m by 20m in either direction. The house will be served by a septic tank and a separate soakaway for surface water.

1.2 No pre-application advice was sought. It is not mandatory in such cases.

1.3 No existing infrastructure currently at the site.

1.4 No supporting documents have been submitted.

1.5 **Variations:** None

## **2. SITE DESCRIPTION**

- 2.1 The site is on sloping ground with significant tree cover within Belivat on land between two existing properties. The site is north of Birchwood and south of Silver Spring with Woodend adjacent to the west across the public road. There is a watercourse beyond the eastern site boundary.

## **3. PLANNING HISTORY**

- 3.1 11/00025/PIP – erection of house – Refused. Subsequently granted planning permission in principle on consideration by the Planning Review Body. Permission granted on 11 April 2012.

10/03243/PIP – Planning permission in principle for new dwelling house at land north of Birchwood, Belivat. Permission refused 27 April 2011.

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown Neighbour 24 March 2015

Representation deadline : 24 March 2015

Timeous representations : 7 timeous representations from 6 households

Late representations : 2 non timeous representations from 1 household

- 4.2 Material considerations raised are summarised as follows:

- Contrary to the development plan – Contrary to policies 28, 29 and 35 of the Highland-wide Local Development Plan as the site is contrary to the settlement pattern and intrusive in the landscape.
- Drainage – Concern regarding septic tank outflow and drainage from the site. Can be a problem in winter with flooding to the north of the site. The ditch to the east of the site boundary is not considered appropriate as is stagnant.
- Trees – Removal will affect wildlife and exacerbate flooding.
- Road traffic safety – Already busy, single track road is in poor condition especially in winter. Increased traffic as a result of developments which have been approved along the road. Limited number of passing places resulting in use of verges and entrance drives. Blind summit to the south west of the proposed access.
- Pedestrian safety – Lack of footpaths and streetlights for those walking along the public road.
- Visual impact – Detrimental impact and overlooking adjacent neighbours.
- Illuminated light – Potential impact on neighbours if trees are to be felled from the sight.
- Potential impact on services along the roadside verge along the north western site boundary.

- 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 Officer:** No objection. It was noted that Condition 8 of 11/00025/PIP requires that the applicant provide arboricultural information, but none has been supplied. The Forestry Officer advised the applicant will need to provide a Tree Constraints Plan and Tree Protection Plan to BS:5837(2012) in support of the proposal before development can commence on site.

5.2 **Environmental Health :** No comments received.

## **6. DEVELOPMENT PLAN POLICY**

6.1 The following policies are relevant to the assessment of the application

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

Policy 28 Sustainable Design

Policy 29 Design Quality and Place-making

Policy 51 Trees and Development

Policy 58 Protected Species

Policy 64 Flood Risk

Policy 65 Waste Water Treatment

Policy 66 Surface Water Drainage

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

Not applicable

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

Access to Single Houses and Small Housing Developments

Flood Risk & Drainage Impact Assessment

Housing in the Countryside and Siting and Design

Trees, woodlands and development

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

Not applicable

## **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**

This proposal is for the approval of Matters Specified in Conditions relating to the erection of a house. Planning permission in principle for the development has previously been granted by the Review Body (reference 11/00025/PIP) with relevant conditions attached. The Review Body considered the development to be in accordance with supplementary planning guidance on housing in the countryside and considered the development potential of the site outweighed the contribution existing trees offered to the amenity of existing residents.

The conditions attached generally relate to layout, design and access together with tree protection. In terms of those conditions, it is considered that the overall design and layout is acceptable. The submitted plans show that an access to the relevant standards can be achieved.

There will be a significant impact on trees. However, the principle of development has been accepted and substantial tree felling will be required to construct the house along with the associated access and drainage requirements. Details of the full extent of tree felling are controlled by a condition which remains to be purified at a later date.

### 8.4 **Material Considerations**

In terms of the representations received, they raise the following issues which are similar to those made at the time of the application for planning permission in principle:

1. The proposal would be contrary to the provisions of the approved Highland Structure Plan Policy H3: Housing in the Countryside since the applicant has failed to demonstrate a requirement for the house on the basis of land management or family purposes related to the management of land.
2. The proposal would be contrary to Policy G2 of the Highland Structure Plan and the provisions of the Supplementary Planning Guidance for Housing in the Countryside in that it does not reflect and respect the character, cohesiveness, spacing and amenity of the existing group and individual houses within the group and will have a detrimental impact on local amenity woodland. In response, it will be noted that the proposal was the subject of a Notice of Review and was subsequently granted permission with due regard for the objections received and on the basis that it was considered that the proposal was not in conflict with the existing housing pattern, nor unduly detrimental to amenity. The principle of development has therefore been established and the comments relating to this matter are no longer relevant.

3. The proposal would be contrary to Policy 53 of the draft Highland-wide Local Development Plan in that it will have a detrimental impact on local amenity woodland through the loss of trees. In response, the Review Body considered that the proposal was not contrary to Policy 53, nor unduly detrimental to the impact on local amenity. The principle of development has therefore been established and the comments relating to these matters are no longer relevant.

Notwithstanding the concerns expressed by local residents and their comments (some of which refer to now superseded plans) relating to the impact a development on this wooded site will have, the current application seeks only to purify the conditions in respect of the matters specified in the original permission. It is not possible therefore to review the principle of the development which was confirmed on the grant of the planning permission in principle.

The matters which are therefore under consideration relate to the design of the house, its siting within the boundaries of the site and infrastructure. The 3 bedroom, A-framed 1¾ storey house with ancillary garage is to be located in an area of woodland. The house has a 35 degree roof pitch finished with Marley Modern dark grey tiles. The external walls are to be finished with a white wet dash render and Moray stone detailing to the corners and base course. Units, soffits and fascias are to be finished in white Upvc.

Representations make reference to the size of the property which is substantial, but is considered a modern interpretation of a traditional form. Properties of similar size, scale and materials are found in Belivat and the wider surrounding area. The house position within the plot is considered acceptable. It is inevitable that woodland will be lost as a result of the development, but this matter was taken into account on consideration of the principle of development.

Parking space for 3 cars is provided on site. There is also sufficient space within the site for further parking and turning of vehicles.

Drainage is to be by means of Klargester Biodisc treatment plant located towards the northern site boundary with discharge to the existing water course north east of the site along with SUDS runoff. The drainage arrangements are considered satisfactory.

Concern was raised regarding potential overlooking and loss of privacy at adjacent properties. It is considered there is adequate separation between the nearest surrounding properties (Birchwood, Silver Spring and Woodend) and again it is reiterated that the principle of development has already been approved.

Construction hours and noise generating activities are controlled by Informative.

## 8.5 **Other Considerations – not material**

- Potential detrimental impact to internet connection and water pressure due to a lack of capacity.

## 8.6 **Matters to be secured by Section 75 Agreement**

n/a

## 9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising these matters specified in conditions. It is considered that overall the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations. The details submitted address the matters specified in conditions and it will be for the applicant to submit additional details regarding tree matters before development can commence on site.

## 10. RECOMMENDATION

<b>Action required before decision issued</b>	N
Notification to Scottish Ministers	N
Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

**Subject to the above**, it is recommended the application be **APPROVED**.

### 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.

The planning permission in principle to which this approval of matters specified in conditions relates is: **11/00025/PIP**

The conditions attached to the specified planning permission in principle, which are purified by this approval of matters specified in conditions, are: **1, 7**

The following conditions attached to the specified planning permission in principle remain in force/to be purified: **2, 3, 4, 5, 6, 8, 9, 10**

### TIME LIMITS

The development to which this planning permission in principle relates must commence no later than **TWO YEARS** from the date on this decision notice.

## **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.

### **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.

### **Septic Tanks & Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

### **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:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

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

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

### **Mud & Debris on Road**

Please note that it is 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.

**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](mailto:env.health@highland.gov.uk) for more information.

**Building Regulations:** Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at [BuildingStandards@highland.gov.uk](mailto:BuildingStandards@highland.gov.uk) or on 01349 886606.

### **Protected Species - Halting of Work**

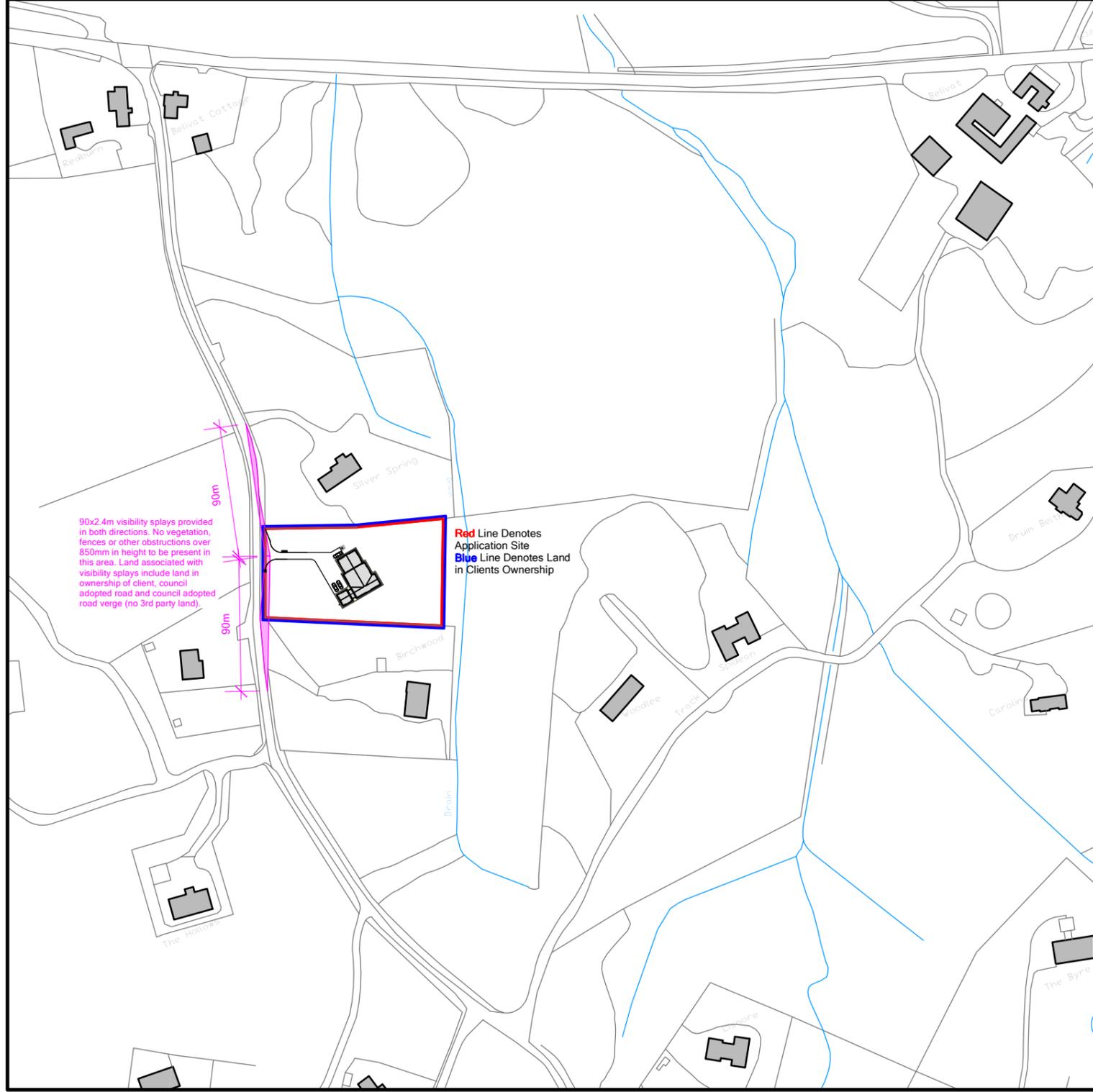
You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from:

SNH: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species).

Signature: Allan J Todd  
Designation: Area Planning Manager – South  
Author: Roddy Dowell  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan SPA.15.001.02  
Plan 2 – Elevations SPA.15.001.01  
Plan 3 – Site Levels SPA.15.001.03

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**Location Plan**  
 Scale 1:2500

CLIENT	MR PETER GIBSON	DATE	26.01.2015
	PROJECT	PROPOSED NEW DWELLING AND ASSOCIATED WORKS PLOT 2, LAND NORTH OF BIRCHWOOD, BELIVAT, NAIRN HIGHLAND	SCALE
		TITLE	PLANNING PROPOSALS LOCATION
		DWG No.	SPA.15.001.02

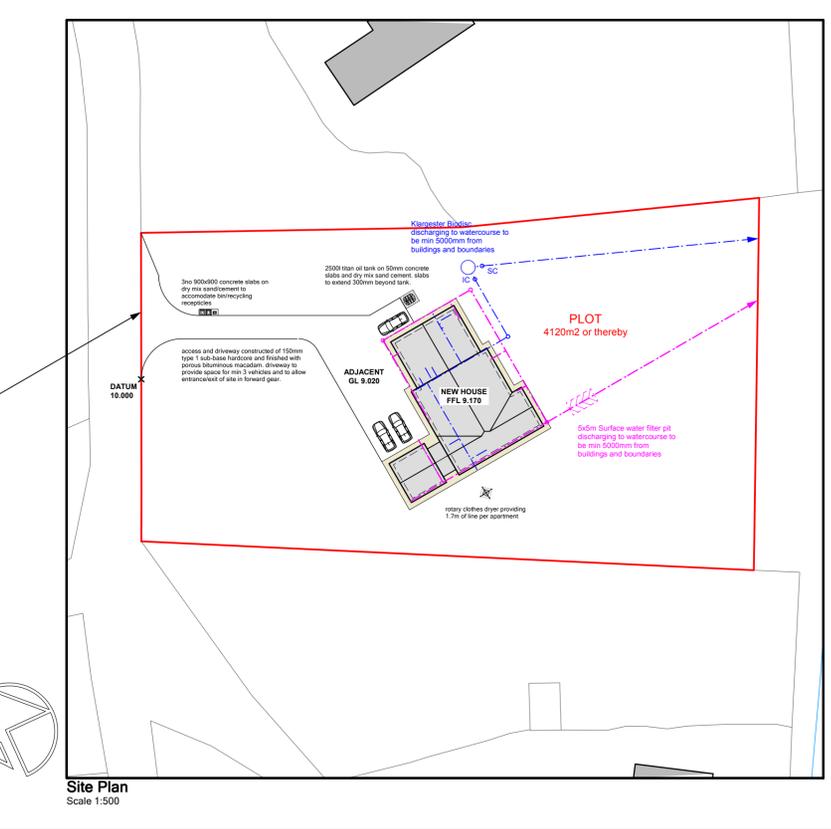
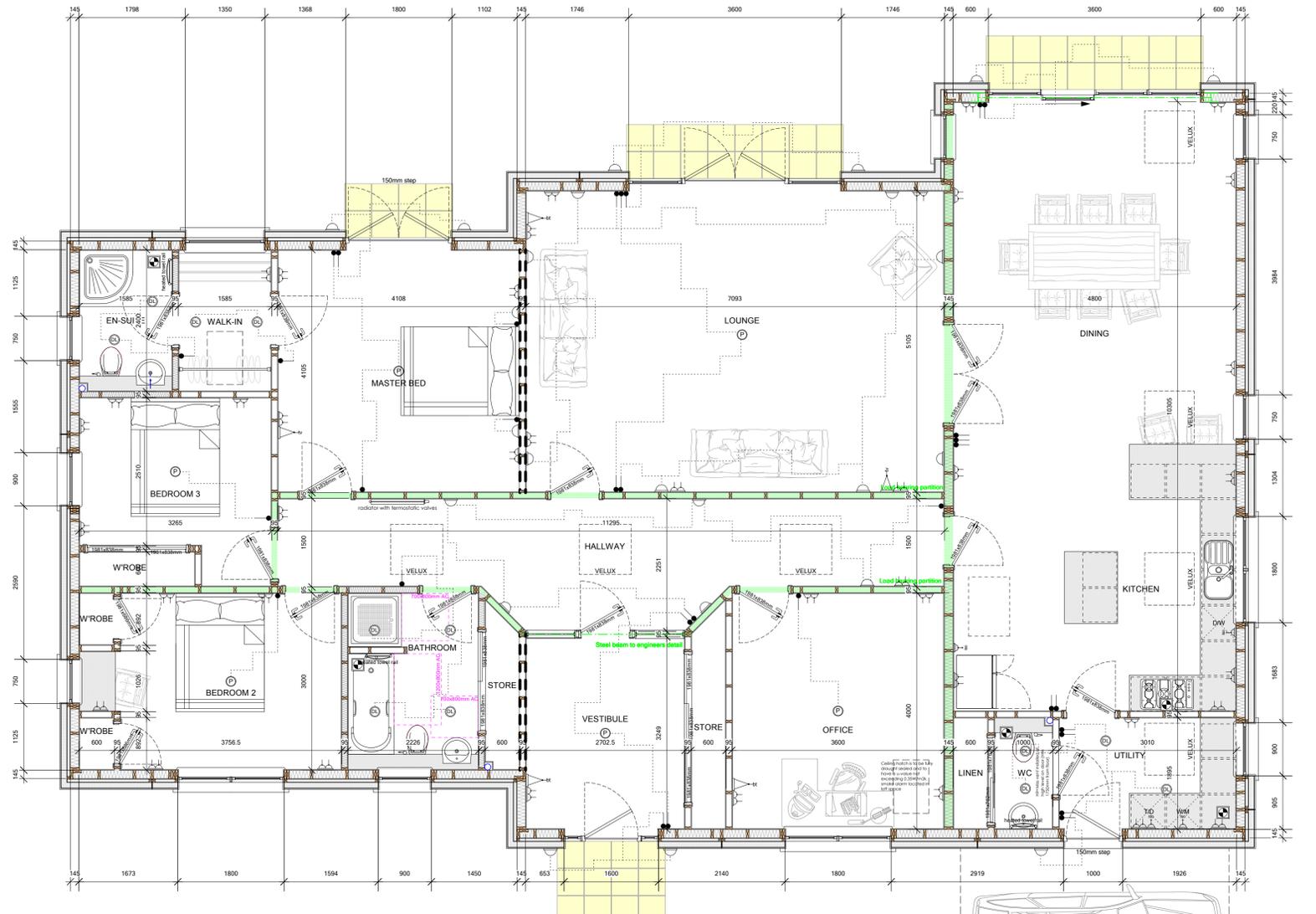
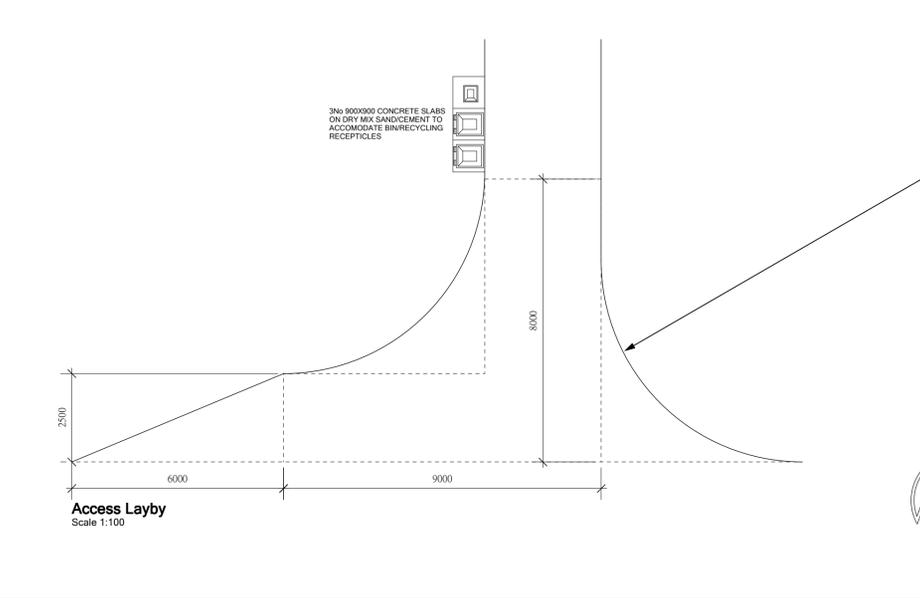
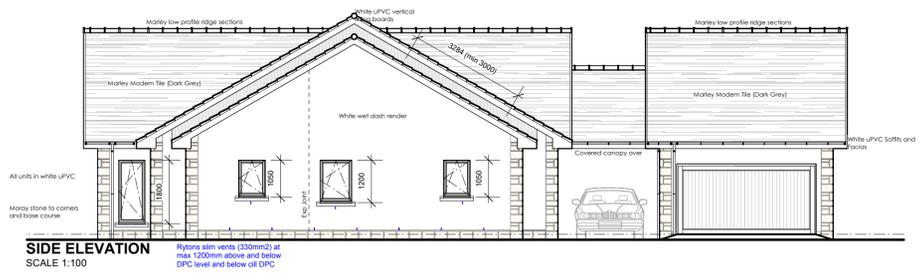
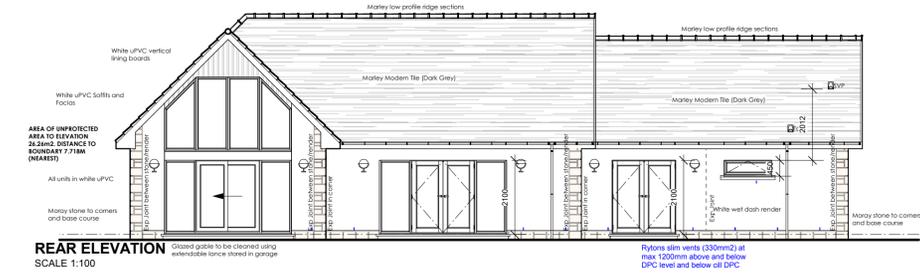
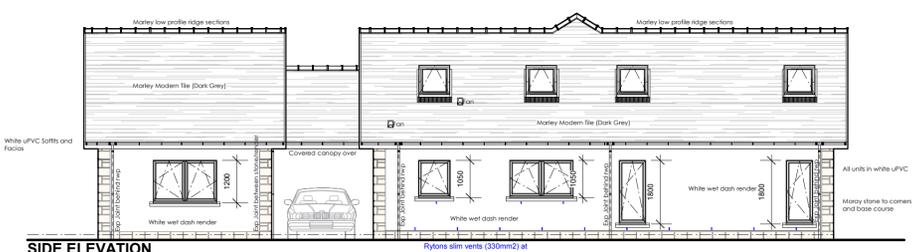
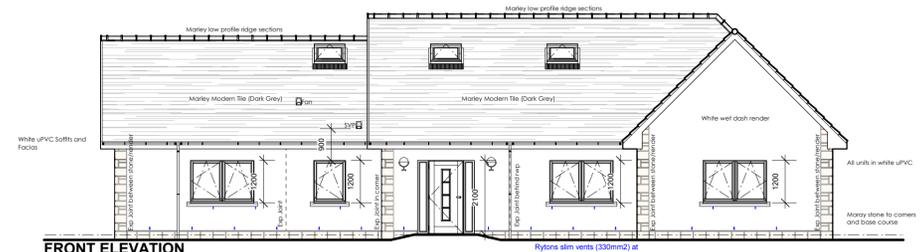
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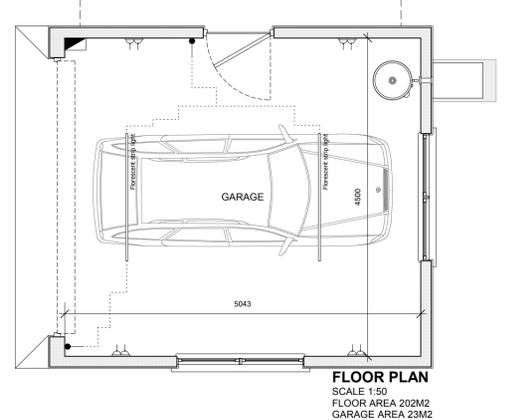
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MR PETER GIBSON  
 26.01.2015  
 AS NOTED  
 PLANNING PROPOSALS  
 GENERAL ARRANGEMENT  
 SPA.15.001.01  
 PROPOSED NEW DWELLING AND ASSOCIATED WORKS  
 PLOT 2, LAND NORTH OF BRICHOOD, BELVAT, HIGHLAND



- FLOOR PLAN LEGEND**
- DOUBLE SOCKET
  - DOUBLE SOCKET (high level)
  - SWITCH
  - DOWN LIGHTER
  - PENDANT FITTING
  - TV POINT
  - PHONE SOCKET
  - MECHANICAL FAN
  - APPLIANCE ISOLATOR (high level)
  - WALL LIGHT/PIR



RIDGE LEVEL (15.414)

ROAD LEVEL (DATUM 10.000)

FLOOR LEVEL (9.170)

GROUND LEVEL (9.020)

BURN LEVEL (5.481)



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CLIENT <b>MR PETER GIBSON</b>	DATE 26 06 2015
	SCALE AS NOTED
PROPOSED NEW DWELLING AND ASSOCIATED WORKS PLOT 2, LAND NORTH OF BIRCHWOOD, BELLINAT, AINRY, HIGHLAND	TITLE PLANNING PROPOSALS SITE SECTION
	DWG No. SPA-15.001.03