

**The Highland Council**

**North Planning Applications Committee  
29 November 2016**

Agenda Item	6.8
Report No	PLN/069/16

**16/04199/FUL: Mr Robert Finnie  
Torsealladh, Munro Park, Contin, Strathpeffer.**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Change of use of land to domestic curtilage, erection of two garages and a garden shed (retrospective)

**Recommendation - GRANT**

**Ward :** 06 - Wester Ross, Strathpeffer And Lochalsh

**Development category :** Local Development

**Pre-determination hearing :** Not required

**Reason referred to Committee :** 5 or more objections.

**1. PROPOSED DEVELOPMENT**

- 1.1 The application seeks consent for the change of use of land to domestic curtilage and the erection of two garages and a shed for domestic use. The garage situated at the bottom corner of the site measures 9m x 4m and 3.61m from ground level to the ridge. The garage located adjacent to the driveway measures 7m x 5m and due to its location on sloping ground has been built on a level platform. Therefore, this garage varies in height from 4.46m to the ridge from the lowest ground level at the south-west corner and 3.81m in height from the highest ground level to the ridge at the north east corner. A small timber garden shed has also been located adjacent to the eastern boundary.

The most northerly garage parallel to the driveway is complete. The garage adjacent to the southern boundary has been partially erected. Both garages are currently unauthorised and this planning application therefore seeks retrospective planning permission to regularise the development. The area of land on which the garages are sited is within the same ownership as Torsealladh, however, the land was not included as garden ground within the original planning consent for this property. Therefore, as well as consent being sought for the unauthorised garages and garden shed, consent is also sought for the change of use of this land to garden ground.

## **2. SITE DESCRIPTION**

- 2.1 The site is located within the village of Contin and comprises a detached residential property called Torsealladh and an adjacent area of land to the south within the same ownership. This area of land, on which the garages and shed have been erected, received outline planning permission for a separate house in 2000 (00/00874/OUTRC). The site has been maintained as an area of grass in recent years and has been used informally as garden ground associated with Torsealladh by the owners. Permission is sought for two steel framed, green metal clad garages and one smaller timber garden shed. One of the garages is located at the south-east corner of the site, parallel lengthways with the southern boundary. The other is located adjacent to the driveway, parallel lengthways to the east boundary. A section of boundary fence has been removed in order to access the garage adjacent to the southern boundary from the existing driveway. Levels slope gradually downwards from east to west and gradually downwards from north to south. A low rendered wall separates the garden ground of Torsealladh from the adjacent area of land. A timber fence runs along the western boundary with the playing field and a mature hedge delineates the boundary with the detached residential neighbour Whyalla to the south. A timber fence delineates the eastern boundary with Midville, a detached residential neighbour.

## **3. PLANNING HISTORY**

- 3.1 The following planning history relates to Torsealladh;
- 00/00874/OUTRC - Formation of 3 House Plots (Outline) - Housing Development at Homewood, Contin.
- 05/00018/FULRC - Erection of House (Detail) - House Plot 1 At Homewood, Contin – built (Torsealladh)
- 06/00875/FULRC - Erection of Garage – Torsealladh, Contin - built

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : None  
Representation deadline : 03.11.2016  
Timeous representations : 10  
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:
- Why was planning permission not applied for in the first instance? Third parties were not given a chance to comment on the proposals prior to development commencing at the site.
  - The metal agricultural/industrial design of the sheds is not in keeping with the surrounding residential homes.
  - The site designated for residential use in the local plan.

- The northern most shed has been positioned on the higher part of the site. If a house had been built with planning permission then the planning department would have insisted it be sited in line with the other two existing houses in the lower part of the site.
- The southern most shed has not been satisfactorily sited from a road safety point of view.
- If change of use of the site is granted, a further change of use could see these sheds being used for commercial activities.
- Will the new area of residential garden ground be subject to permitted development rights.
- If permitted this will encourage others to go ahead and build without securing planning permission first
- The sheds results in overshadowing and will also adversely affect the amenity of the adjoining residents particularly Midville
- The sheds should refused , dismantled and sited elsewhere
- Concerns over noise and safety with the sheds impacting on children and the elderly in particularly
- The application should be considered by the committee and not a delegated decision

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 None

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland-wide Local Development Plan 2012 (HwLDP)

28 Sustainable Design

34 Settlement Development Areas

## 6.2 Inner Moray Firth Local Development Plan 2015

Within settlement boundary

No specific allocation – shown as being within existing housing area

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Scottish Government Planning Policy and Guidance

## 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 The principal determining planning policies are as follows:

- 28 (Sustainable Design) of the HwLDP
- 34 (Settlement Development Areas) of the HwLDP

8.3.2 **Policy 28 (Sustainable Design)** 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 state that proposals should be assessed on the extent to which they “impact on individual and community residential amenity” and “demonstrate sensitive siting and high quality design in keeping with local character”.

8.3.3 **Policy 34 (Settlement Development Areas)** states that “we will support proposals within Settlement Development Areas if they meet the requirements of policy 28” and that we will judge proposals in terms of how compatible they are with the existing pattern of development and adjacent land uses.

8.3.4 The impact of the development upon the amenity of the residential area and wider community is a key consideration in the determination of this planning application.

8.3.5 The site is located in the village of Contin within a mainly residential area, where there is a variety in the styles and sizes of plots and properties. The change of use of the area of land to the south of Torsealladh to garden ground is considered to be in keeping with the residential area and compatible with the neighbouring land uses which comprise a playing field and residential properties. The fact that the site was previously granted outline permission for a separate house in 2000 does not preclude the site from being developed for an alternative use. The land has no specific allocation in the adopted Development Plan and the Planning Authority cannot insist that the site is only developed as a separate house plot alone. The application must be considered on the basis on whether the

development is acceptable in itself having regard to all material planning considerations. There are however no Development Plan policies or other material planning considerations that would justify a refusal of the change of use of this area of land to garden ground associated with the house site to the north.

- 8.3.6 Although both garages are visible from the street and from the playing field to the west, their visual impact and impact upon the amenity of the residential area and wider community is not considered to be unduly significant. The garages are of a domestic scale being comparable to the dimensions of a single and double garage. They are for domestic uses, with one being used to store a car and garden implements whilst the other will accommodate a caravan. The fact the garages can be seen at a distance from the playing field does not significantly detract from the enjoyment or use of this community facility. The design of the garages is functional and durable, however, this is considered to be appropriate for subsidiary structures within residential curtilage. The use of green metal cladding does not have to be solely restricted to use on agricultural or commercial buildings, it can also be an acceptable material for use on sheds and garages within residential areas and is of a recessive colour. In this instance, the use of the green cladding does not result in the industrialisation of the site. The garage at the south-east bottom corner of the site is screened from the street by a 1.8m high boundary fence, and is located on a lower level than the street, meaning that its impact upon the wider area is reduced. The other garage is located adjacent to the driveway leading to Torsealladh and has a clear association with this residential property. The impact of the smaller timber garden shed is very minimal due to its size and position behind the boundary fence. The garages and shed are not considered to have a visual impact or impact upon general amenity that is significantly detrimental to the residential street or the wider community sufficient to justify a recommendation to refuse.
- 8.3.7 The impact of the development upon the amenity of the neighbouring properties is another key consideration in the assessment of this planning application.
- 8.3.8 A detached single storey neighbour 'Whyalla' sits adjacent to the southern boundary and is the closest neighbour to the garage located at the south-east corner of the site. A high hedge and fence runs along the southern boundary and screens the majority of the garage from this neighbour. Only the top of the garage roof is visible from above the height of the hedge. The northern side elevation of Whyalla faces towards the boundary hedge and garage, with the main orientation of the property being east-west. Whyalla does not have an outlook directly towards the garage and the impact of the garage upon the amenity of this property is not considered to be significant.
- 8.3.9 A detached single storey property 'Midville' sits to the east of the site. Ground levels slope from east to west in the area and Midville is located at a slightly higher level than Torsealladh and the garages. The garage at the south-east corner of the site has a negligible impact upon Midville due to the separation distance and location outwith direct line of sight from the property. The garage located adjacent to Torsealladh's driveway is the closer of the two garages to Midville. There is approx. 18 metres of separation between the rear west elevation of Midville and this garage and 5m of separation between this garage and the

mutual boundary fence. While the garage does have an impact upon Midville in that it is visible from the rear of the property, the separation distance and siting of the garage on a lower level is such that the garage does not dominate Midville or have an overbearing relationship. Some localised overshadowing of the rear garden area closest to the garage may occur, however, this will be minimal and is not considered sufficient to justify refusal of the application.

8.3.10 The development is not considered to have a significantly adverse impact upon the neighbouring residential properties sufficient to justify refusal of the application.

8.3.11 Therefore the application is considered to accord with policies 28 and 34 of the Highland-wide Local Development Plan, as no significant adverse impact upon individual or wider community amenity has been identified.

#### 8.4 **Material Considerations**

8.4.1 Representations make reference to the fact that the works are unauthorised and that third parties were denied a chance to comment on the proposals prior to works commencing. The unauthorised nature of the works is regrettable, however, in instances such as this the Planning Authority is required to consider whether the planning application is acceptable or not.

8.4.2 A representation refers to the southern most garage not being satisfactorily sited from a road safety point of view. Neither of the garages or shed obscure visibility splays on Munro Park or at the access point from Torsealladh onto the street. The access to the southern most garage is located off the existing driveway and not directly onto the public road. Furthermore, the fence line with the street has not been altered in order to accommodate the development.

8.4.3 A representation refers to the further permitted development rights that will be awarded to the new area of residential curtilage and the potential for future development as a result. Permitted development rights will apply to the area of land subject to the change of use to residential curtilage. However, permitted development regulations restrict the height and percentage of garden area that is allowed to be developed without planning permission in order to protect neighbour amenity. Permitted development rights are only removed when absolutely necessary, for example, where there may be an impact upon a designated feature or where a site is very constrained in terms of size. Removal of permitted development rights in this instance is not considered to be justified.

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

A representation refers to the possible future change of use of the site to commercial use. The planning application lodged seeks the change of use of the land to domestic curtilage and the erection of garages and a shed for domestic purposes only. The applicant has stated that there is no intention to use the site for commercial purposes. The application therefore must be assessed on this basis.

## 9. CONCLUSION

- 9.1 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 acceptable in terms of all other applicable material considerations.

## 10. RECOMMENDATION

### **Action required before decision N issued**

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

1. The two garages, shed and the ground subject to the change of use to domestic curtilage hereby approved shall be used solely for domestic purposes ancillary to the use of the property currently called Torsealladh and any other future name/number that this property may be given.

**Reason** : In the interests of neighbour and residential amenity.

2. Prior to any other work commencing, details of the finish and extent of the access to the sheds from the existing driveway shall be submitted to the Planning Authority for approval in writing. The development shall thereafter proceed in accordance with the approved details.

**Reason** : In the interests of neighbour and residential amenity.

### **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.

### **Completion Notice**

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. 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.

A copy of the notice referred to is attached to this decision notice for your convenience.

### **Accordance with Approved Plans and 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**

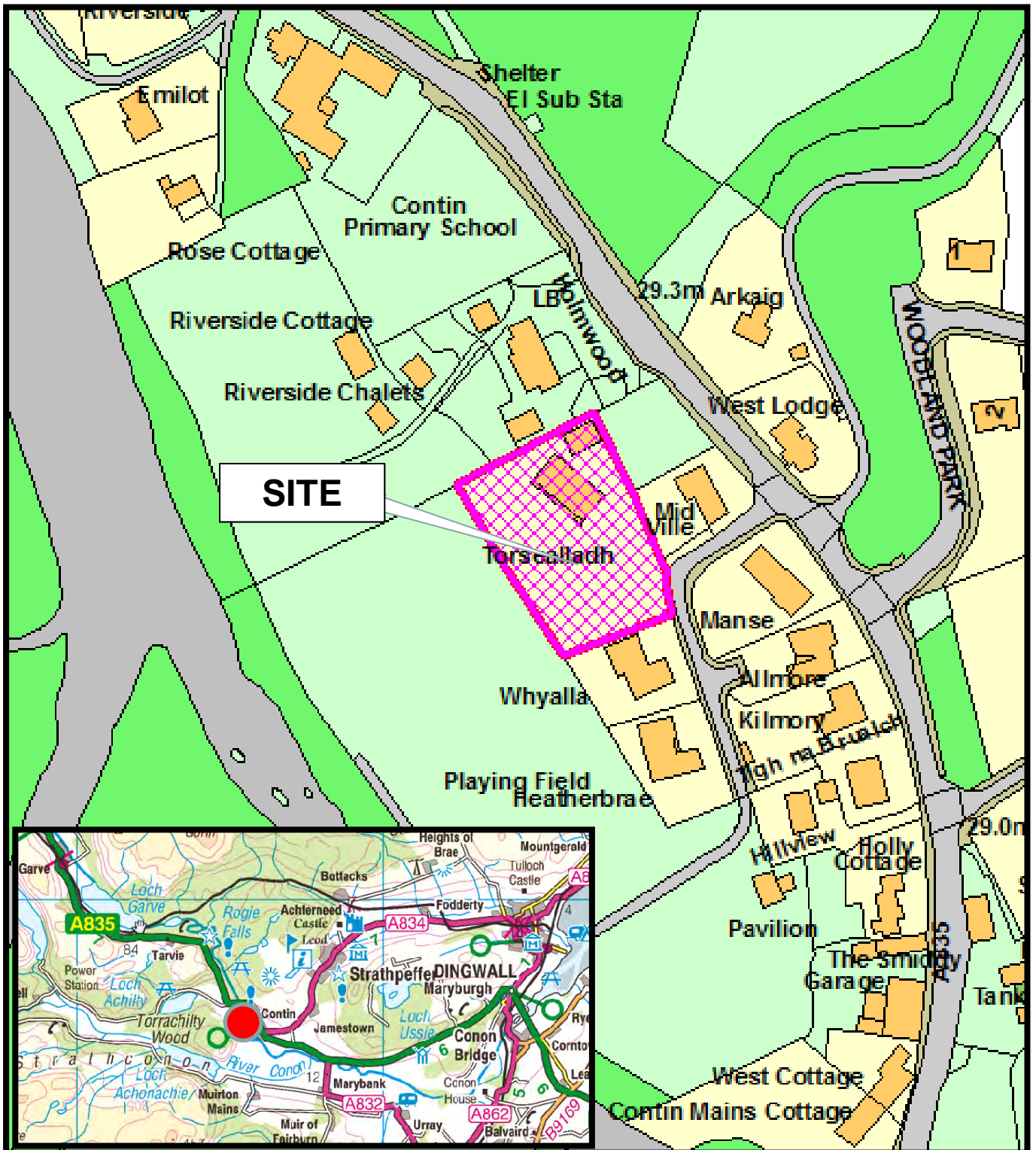
It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners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

### **Mud and 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.

Signature: Dafydd Jones  
Designation: Area Planning Manager - North  
Author: Rebecca Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Site Plan 000004  
Plan 3 – Elevations 000001  
Plan 4 – Elevations 000002





**The Highland Council**  
**Comhairle na Gàidhealtachd**

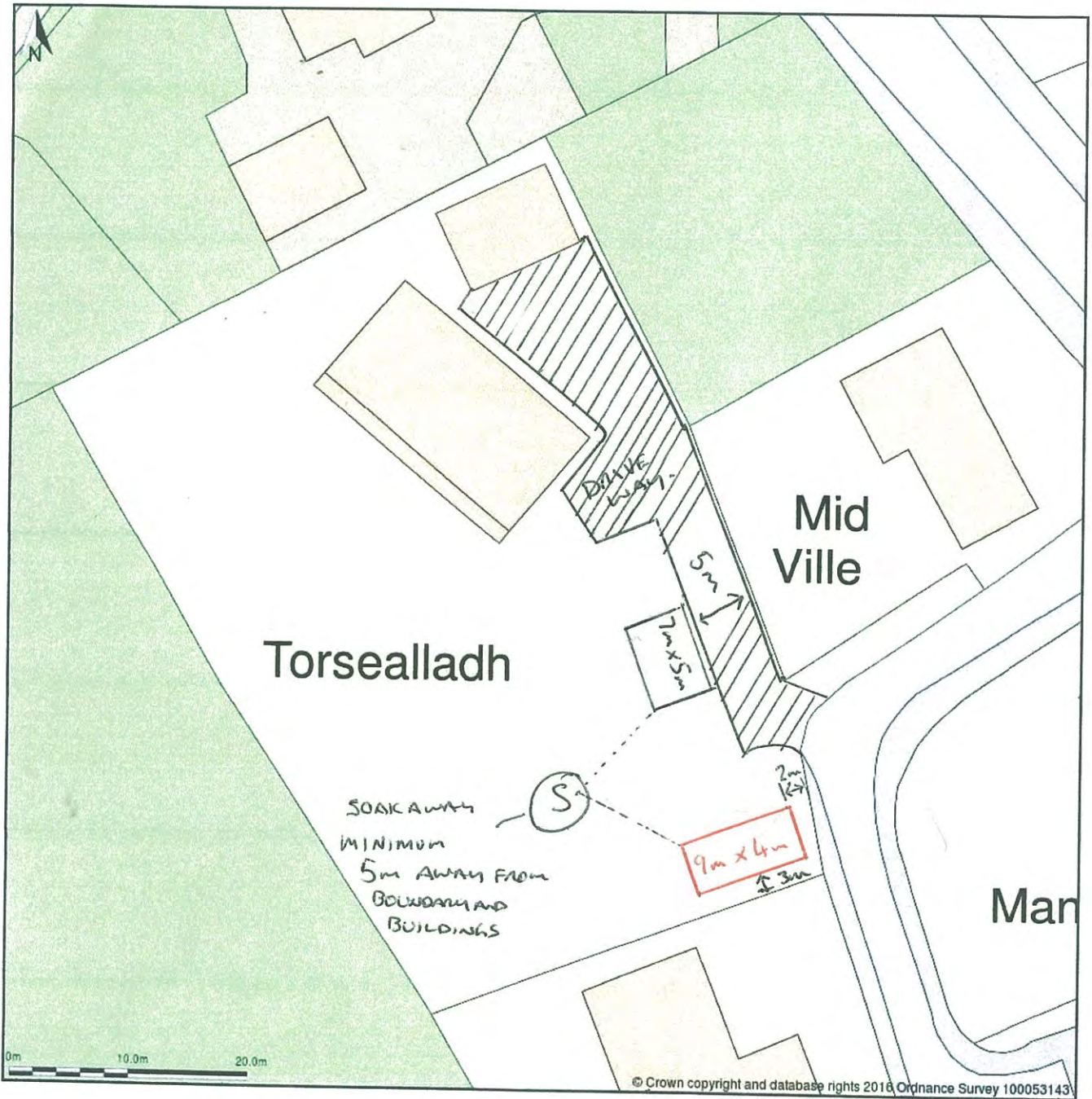
**Planning & Development Service**

**16/4199/FUL**

**Change of use of land to domestic curtilage and erection of garden shed and two garages (retrospective) at Torsealladh, Munro Park, Contin**



Torsealladh, Munro Park, Contin, Highland, IV14 9ES



Block Plan shows area bounded by: 245694.06, 856073.97 245784.06, 856163.97 (at a scale of 1:500) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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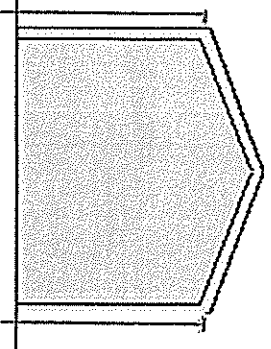


Building For:  
**Robert Finnie**  
 Produced by:  
**Saltire Steel Buildings**

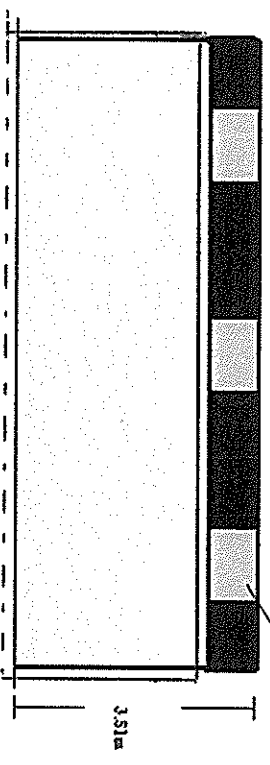
**APPROVED**  
 14 JAN 2016

THE ROOF, WALLS AND WAREHOUSING OF OLIVE GREEN CORRUGATED FRUITEE STEEL SHEET.  
 THE GUTTERING WOULD BE MADE OF OLIVE GREEN PLASTISOL SHEET.  
 THE LEFT ELEVATION OF THE GARAGE IS OPEN (NO DOOR) THIS WILL SOFFICE FOR VENTILATION.  
 SIX HEAVY DUTY SKYLIGHT PANELS ARE FITTED FOR LIGHT AS GARAGE HAS NO ELECTRICS,  
 THE GARAGE WILL SIT ON AT LEAST A 50mm PLINTH OF CONCRETE OFF GROUND LEVEL WITH A  
 RAMP UP TO THE OPEN END.

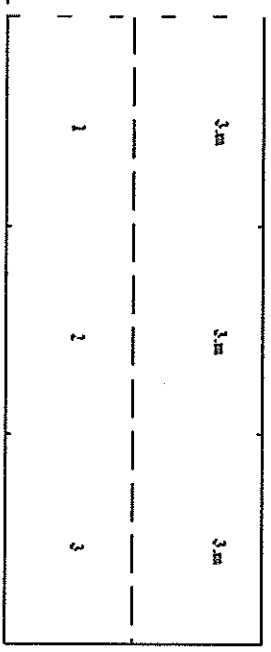
SKYLIGHT PANELS.



Left End



3.51m



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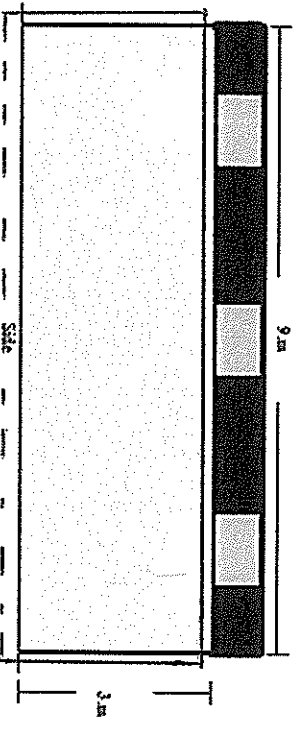
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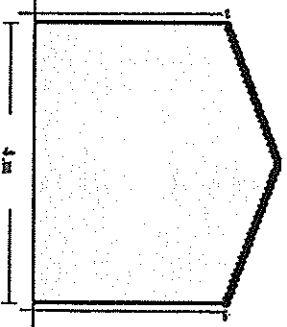
3



9m

Side

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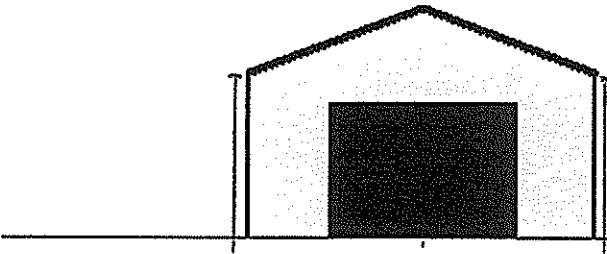
4m  
 Right End

RECEIVED  
14 JAN 2016

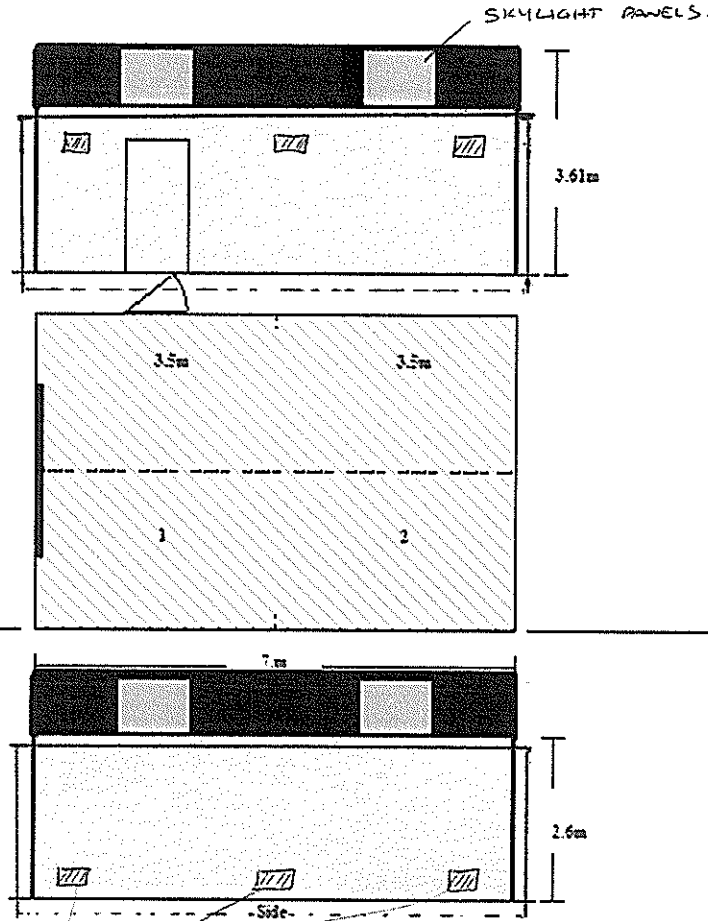
THE ROOF, WALLS, AND DOORS ARE MADE OF OLIVE GREEN PLASTISOL PROFILE SHEET STEEL.  
THE GUTTERING MARKED IN RED IS MADE OF OLIVE GREEN PLASTISOL STEEL.  
VENTILATION PANELS HIGH AND LOW WILL BE FITTED WITH A MINIMUM EACH PANEL OFF  $1/3000^{th}$  OF FLOOR AREA.  
FOUR HEAVY DUTY SKYLIGHT PANELS FITTED FOR LIGHT AS GARAGE HAS NO ELECTRICS.  
THE GARAGE WILL SIT ON AT LEAST A 50MM PLINTH OF CONCRETE OFF GROUND LEVEL WITH A RAMP UP TO THE ROLLER DOOR.



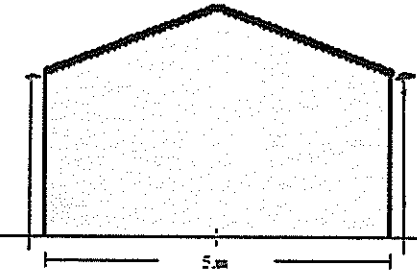
Building For:  
**Robert Finnie**  
Produced by:  
**Saltire Steel Buildings**



Left End



VENTILATION PANELS.



Right End