

Agenda Item	6.7
Report No	PLS-061-21

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 17 August 2021  
**Report Title:** 21/02073/FUL: Miss Lynne Cordiner  
5 West Heather Road, Inverness  
**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Conversion of existing garage to form ancillary accommodation  
**Ward:** 15 – Inverness Ness-Side  
**Development category:** Local  
**Reason referred to Committee:** 5 or more objections

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.

### Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 This application is to convert the existing detached double garage to ancillary accommodation for the house at 5 West Heather Road, Inverness.
- 1.2 The converted garage would contain a living area, shower room and kitchen area on the ground floor, and bedroom and toilet on the upper floor. The existing twin garage doors would be replaced with full height windows facing toward the street. The existing upper floor window on the west elevation (side) towards the house would be retained and a door added at ground level. Rooflights are proposed on the north (rear) roof plane. There are 3 parking spaces on site. It is not proposed to form any additional parking spaces or to alter the existing access layout.
- 1.3 Pre-Application Consultation: None
- 1.4 Supporting Information: None
- 1.5 Variations: None

## 2. SITE DESCRIPTION

- 2.1 The site is formed by the existing detached double garage at 5 West Heather Road Inverness. It is located within a modern residential area with an established building and plot layout. The houses to the west of the site, and those along the north side of the street are all larger detached houses, some with garages. The houses are predominantly 1½ storey and 1¾ storey. To the south side of the road there are higher density flats and two small bungalows. A Care Home also lies on the opposite side of the road.
- 2.2 The garage is located approximately 8.5m to the east of the house, 2.3m to the west of 4 West Heather Road and is built on the boundary between them. It lies adjacent to and in line with the existing attached garage of 4 West Heather Road. The location on a bend in the street results in 5 West Heather Road being angled to the garage, with the garage sitting parallel to 4 West Heather Road.
- 2.3 The double garage is 7m long x 6m wide x 6.3m high, with single garage doors and a west gable first floor window to provide lighting to the first-floor storage/games room area. Access to the garage is formed direct from the public road/driveway east of the shared surface blockwork in front of No.5.

## 3. PLANNING HISTORY

- |     |               |                |                                     |                             |
|-----|---------------|----------------|-------------------------------------|-----------------------------|
| 3.1 | 30 April 2001 | 01/00281/FULIN | Erection of garage                  | Planning Permission Granted |
| 3.2 | 29 Jan 2018   | 17/02148/FUL   | Garage conversion and car port      | Withdrawn                   |
| 3.3 | 17 Jan 2018   | 18/0200/FUL    | Change of use of garage to dwelling | Refused and dismissed by    |

#### **4. PUBLIC PARTICIPATION**

4.1 Advertised: Unknown neighbour

Date Advertised: 28 May 2021

Representation deadline: 11 June 2021

Timeous representations: 5

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Road safety, increase in vehicle movements in cul-de-sac, impact on emergency access
- b) Parking and turning provisions
- c) Driveway formed on a corner at the narrowest point on the street where there are no pavements
- d) Planning (Scotland) Act 2019, s17 (short-term lets within control areas)

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).

#### **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**

28 - Sustainable Design

29 - Design Quality and Place-making

34 - Settlement Development Areas

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

Within Inverness Settlement Development Area; no site-specific policies apply.

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

Access to Single Houses and Small Housing Developments (May 2011)

#### **7. OTHER MATERIAL POLICY CONSIDERATIONS**

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

Scottish Planning Policy (as amended December 2020)

## **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.

### **Determining Issues**

- 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.

### **Planning Considerations**

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
  - b) design and external appearance
  - c) impact on residential amenity
  - d) access and servicing
  - e) any other material considerations

### **Development plan/other planning policy**

- 8.4 The site comprises of a house situated within an established predominantly residential area in the Settlement Development Area of the City of Inverness as defined by the Inner Moray Firth Local Development Plan.
- 8.5 The Development Plan comprises the Inner Moray Firth Local Development Plan (IMFLDP) and the Highland wide Local Development Plan (HwLDP). There are no specific policies contained within the Inner Moray Firth Local Development Plan that are relevant to this proposal. Development proposals within the Settlement Development Area are supported by Policy 34 of the HwLDP where they comply with Policy 28 of HwLDP and are compatible with the existing pattern of development and adjacent land uses.
- 8.6 Policy 28 is a criteria based policy which, for development such as this, seeks to ensure that development proposals as well as being compatible with public service provision, demonstrate sensitive siting and high quality design (as required by Policy 29) without having a significant detrimental impact on individual and community amenity.
- 8.7 Providing that the proposal can demonstrate this to be the case, it would comply with the development plan.

### **Design and external appearance**

- 8.8 The external physical changes to the garage are the removal of the existing single garage doors and their replacement with glazed windows to the street elevation, along with a door facing towards the house, and rooflights to the rear roof elevation.

- 8.9 These physical changes to the building are considered to be acceptable in respect of their design and use of materials, and the resulting external appearance of the garage is therefore considered to be acceptable and will not have a significant impact on the existing character of the area.

#### **Impact on residential amenity**

- 8.10 Representations indicate that the existing house is currently let and therefore this proposal would result in an increase in activity that would adversely impact residential amenity. In addition, existing issues with anti-social behaviour have been raised. This however is a matter for Police Scotland and not the Planning Authority.
- 8.11 It can be confirmed that the existing property is currently advertised as being available for short term let for up to 10 people; not 12 as identified in representations. It is not known whether the proposal would be included as part of the overall letting arrangements but if so, it would take the total number of bedrooms available to 6. This is at a point below where a material change of use for the property, taken as a whole, would be considered to have occurred. As it is not uncommon for houses to have six bedrooms, it would still be reasonable to consider this to be a house in planning terms.
- 8.12 The Planning Authority has limited control over the short-term letting of private residential property where a change of use is not considered to occur. While provision exists within the Short-Term Let Control Areas Regulations 2021 to promote Control Areas and bring such uses into planning control, regardless of scale, this has not been taken forward to date and in any event the key purpose of introducing such control is to ensure that short-term letting does not adversely impact on the availability and affordability of the general housing stock in the area. It is not designed primarily to deal with amenity considerations. From April 2024 there will however be a requirement for owners of properties operated as short-term lets, regardless of size, to have a licence for doing so. While these licensing regulations are yet to be finalised, it looks likely at this stage that amenity considerations would be relevant to the grant, and ongoing retention, of any such licence.
- 8.13 Since the proposal is for the conversion of the garage to ancillary accommodation, where independent living could be achieved, it is important to ensure that the garage is not physically separated from the main property and used as a separate planning unit. In order to retain control over this, it is considered appropriate and necessary to attach a condition to ensure that the accommodation contained within the converted garage shall be used solely as accommodation ancillary to the main house and at no time shall it be occupied as a separate dwelling.
- 8.14 While it is the case that a short-term let can increase traffic and activity associated with a property beyond what might be reasonably expected from a family home, the addition of this further bedroom is not considered to have a significantly detrimental impact on individual or community residential amenity.

### **Access and servicing**

- 8.15 Access arrangements to the house will remain unchanged, using the existing access from West Heather Road. Areas of hardstanding already exist at the house and in front of the garage for the parking of vehicles. The existing hardstanding is to be extended by a further 1.2m towards the house.
- 8.16 It is considered that there is sufficient off-street parking within the curtilage of the property to service a six bedroomed house, even if used as a short-term let.
- 8.17 There will be no additional impact on servicing.

### **Other material considerations**

- 8.18 None

### **Non-material considerations**

#### **Title deeds**

- 8.19 Representations made on the application advise that the title deeds for these properties state that no commercial business is to be carried out within the properties nor should they be occupied by more than one family at a time. It is not for the Planning Authority to enforce title burdens. This is a matter governed by the Title Conditions (Scotland) Act 2003. It is therefore a matter for the interested parties only.

#### **Standard of accommodation**

- 8.20 Comment has been made that the upper floor of garage is not built to habitable standards. This is a matter for Building Standards, not Planning.

#### **HMO licence**

- 8.21 Representations make comment that the property does not have permission for commercial use or an HMO licence. As explained above the short-term letting of a house does not, in most cases, require planning permission. A short-term let is not an HMO. Neither planning permission nor a licence is therefore required for an HMO. Regulations will shortly be laid down in Parliament on the licensing of short-term lets.

#### **Boundary issues**

- 8.22 Objectors highlight that the boundary between No. 4 and 5 West Heather Road is shown incorrectly as is the physical location of the garage. Having checked on the ground however the location of the garage appears to be correct and if there are any inaccuracies between the red line boundary and the boundary on the titles that would be a matter for the interested parties. It does not appear that what is proposed would have any impact on boundaries.

## **Driveway**

- 8.23 Representations highlight that the driveway would be extended over a no build area over the mains water supply. The driveway extension does not in itself require planning permission and as such the Planning Authority has no control over this. This is essentially a Scottish Water matter.

## **Matters to be secured by Legal Agreement / upfront payment**

- 8.24 None

## **9. CONCLUSION**

- 9.1 The proposal is for the conversion of the existing detached garage to ancillary accommodation associated with the existing house. The physical works to convert the garage are considered to be acceptable. While the accommodation is capable of being used independently, it has been submitted on the basis of it being ancillary to the main house and not a separate planning unit. A condition to that effect on the permission would ensure there is no doubt.
- 9.2 While the house is currently advertised as a short-term let opportunity the Planning Authority has limited control over the short-term letting of private residential property where a change of use is not considered to occur. At this scale, the property would still be considered to be a house. As the ancillary accommodation would need to be let alongside the main house, it is considered that the proposal would only lead to a marginal increase in traffic and activity and would therefore not have an unreasonable impact on individual or community residential amenity. Regulation of short-term letting through the licensing regime is likely to address any significant and persistent problems on amenity.
- 9.3 The proposal is assessed as being in accordance with the Policies 28, 29 and 34 of the Highland wide Local Development Plan and therefore the development plan.
- 9.4 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. IMPLICATIONS**

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

**Action required before decision issued** N

**Subject to the above actions**, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. The self-contained accommodation hereby approved shall be used solely as accommodation ancillary to the main dwellinghouse and no other use.

**Reason:** To ensure that the development does not become used as a separate dwellinghouse in recognition of the lack of private amenity space and in accordance with the use applied for.

### REASON FOR DECISION

The proposal is for the conversion of the existing detached garage to ancillary accommodation associated with the private house. The Planning Authority do not have any control over the use of the private house by the owners. The physical works to convert the garage are considered to be acceptable and do not raise any issues with regards to their impact on either individual or community residential amenity. Accordingly, the proposal is assessed as being in accordance with the Development Plan policies 28, 29 and 34.

### TIME 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.

### INFORMATIVES

#### 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.



## **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 (paragraph 259), 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.

## **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.

## **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.

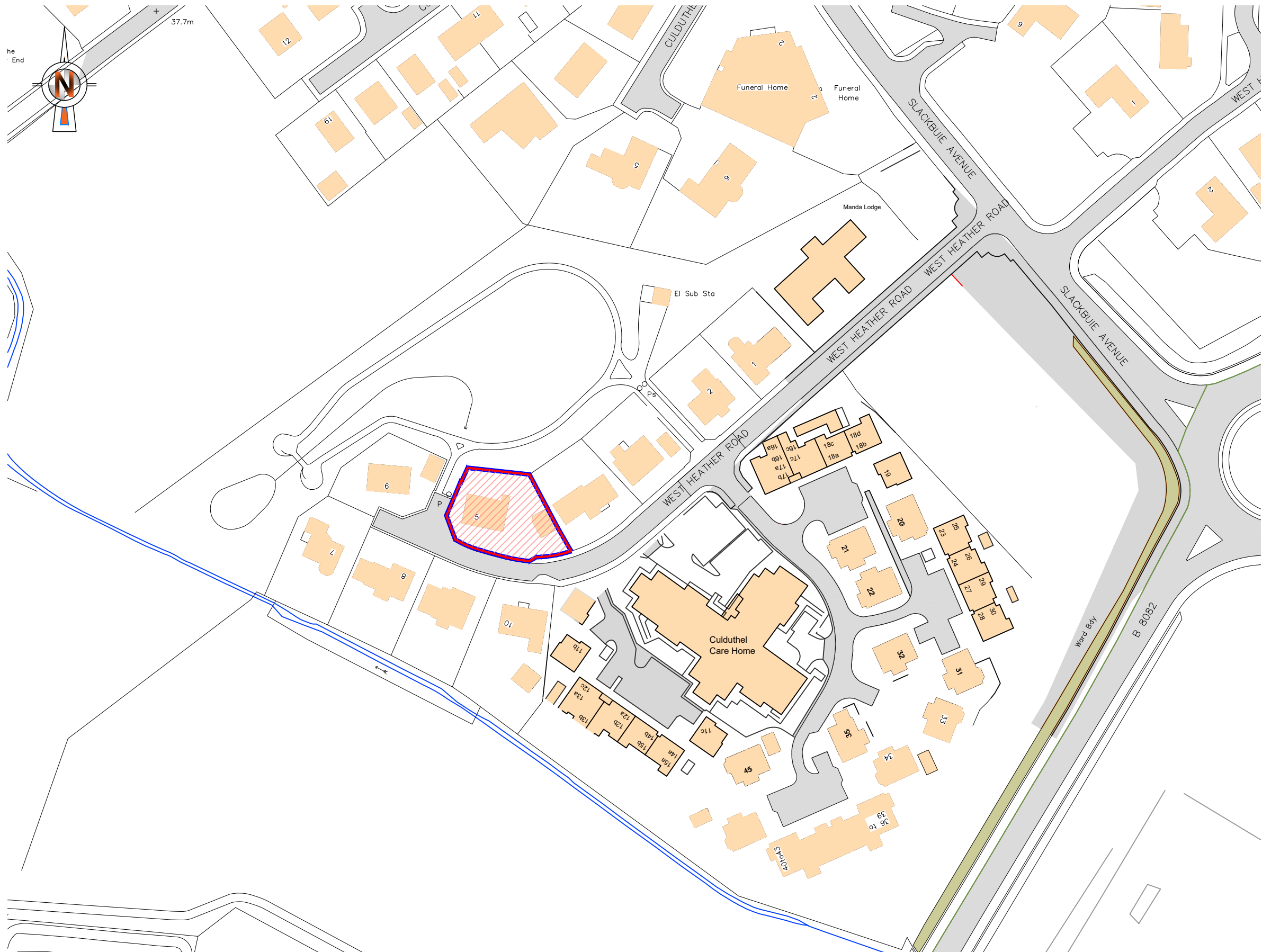
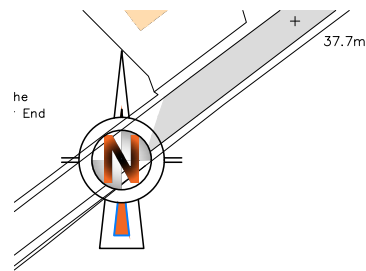
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. 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.

## **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: David Mudie  
Designation: Area Planning Manager - South  
Author: Bob Robertson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: 01 Location Plan  
02 Existing Site Plan  
03 Proposed Site Plan  
04 Existing Garage Plan  
05 Proposed Elevation and Floor Plan



DO NOT SCALE, IF IN DOUBT PLEASE ASK  
 All setting out must be checked on site prior to commencement. Any discrepancy must be reported to  
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- LEGEND**
- site boundary  
area : 2495 sqm
  - landownership

**Planning  
Submission**

REVISIONS			
Rev.	Description	Drawn	Date
A	Site boundary adjusted	CL	11.05.21

Client  
**Lynne Cordiner**

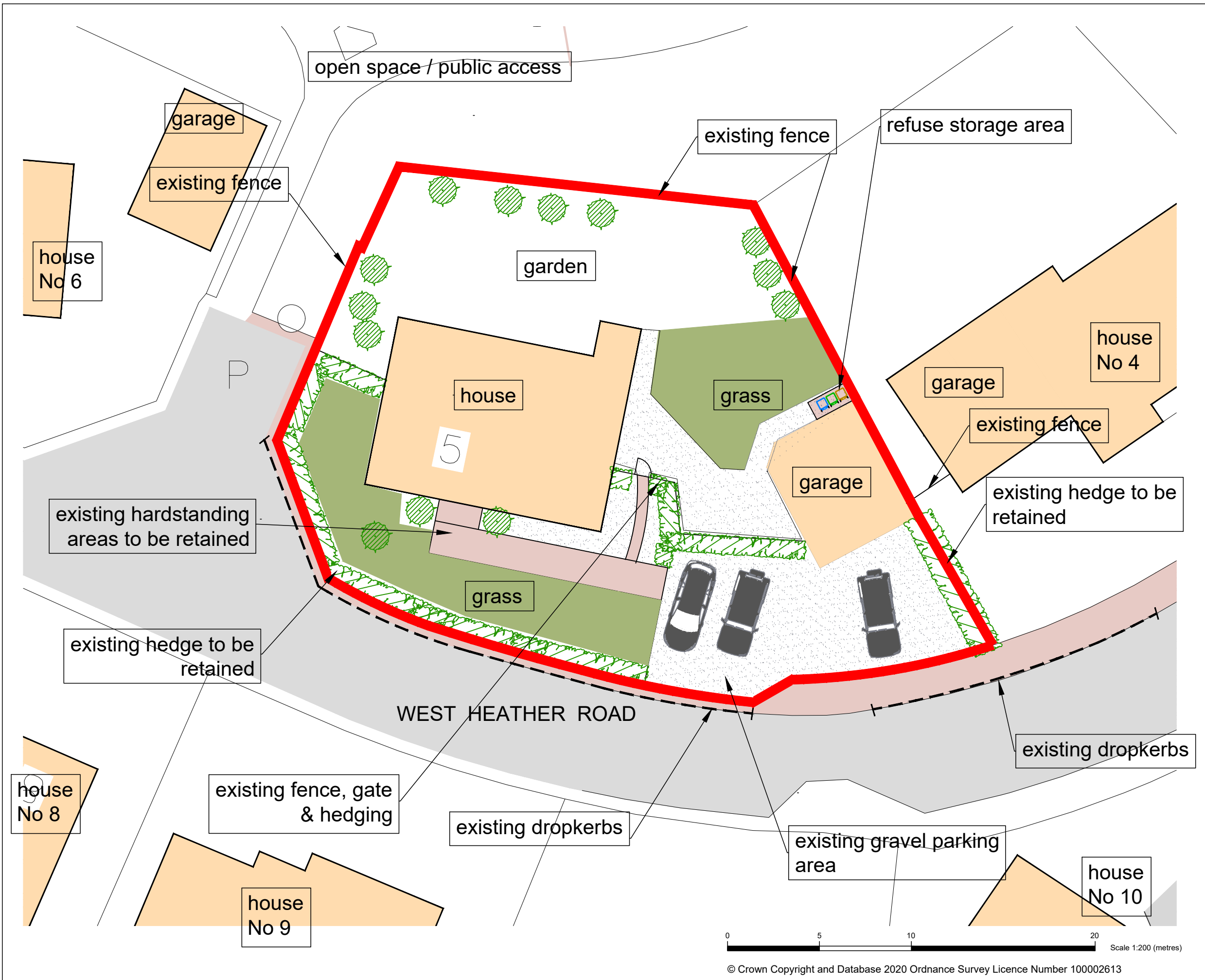
Project  
Conversion of existing garage to form ancillary accommodation forming part of the house at 5 West Heather Road, Inverness

Drawing  
**Location Plan**

Scale <b>1:1250@A3</b>	Date <b>04.2021</b>	Drawn by <b>CL</b>
Project no <b>2721</b>	Dwg no <b>PL001</b>	Rev <b>A</b>

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 STONEYFIELD BUSINESS PARK TEL (01463) 237229  
 INVERNESS IV2 7PA  
 Email: technical@ghjohnston.co.uk



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## Planning Submission

REVISIONS			
Rev.	Description	Drawn	Date
A	Site boundary adjusted	CL	11.05.21

Client  
 Lynne Cordiner

Project  
 Conversion of existing garage to form ancillary accommodation forming part of the house at 5 West Heather Road, Inverness

Drawing  
 Site Plan - Existing

Scale 1:200@A3	Date 04.2021	Drawn by CL
Project no 2721	Dwg no PL002	Rev A

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## Planning Submission

### REVISIONS

Rev.	Description	Drawn	Date
A	Site boundary adjusted	CL	11.05.21

Client  
 Lynne Cordiner

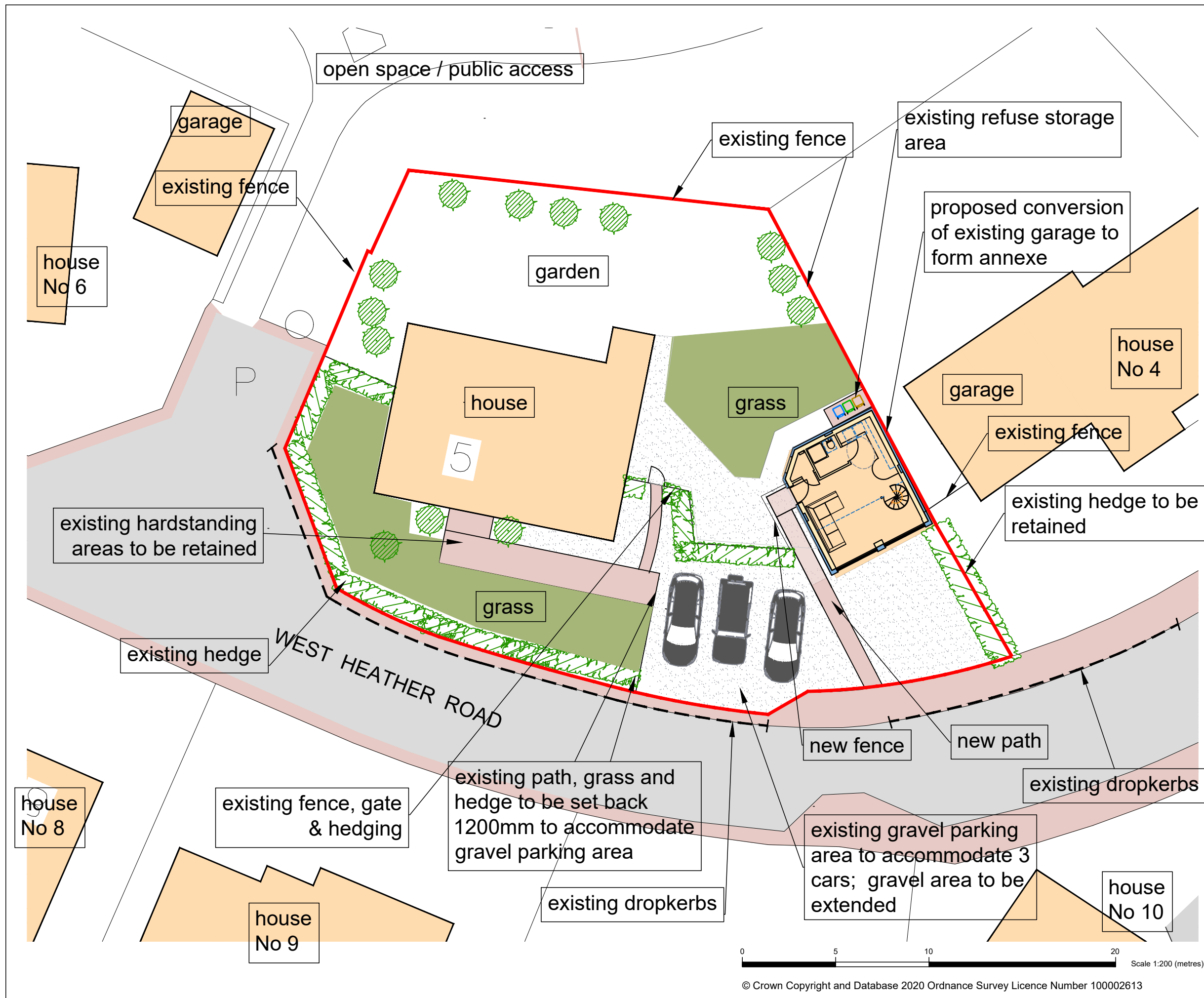
Project  
 Conversion of existing garage to form ancillary accommodation forming part of the house at 5 West Heather Road, Inverness

Drawing  
 Site Plan - Proposed

Scale 1:200@A3	Date 04.2021	Drawn by CL
Project no 2721	Dwg no PL003	Rev A

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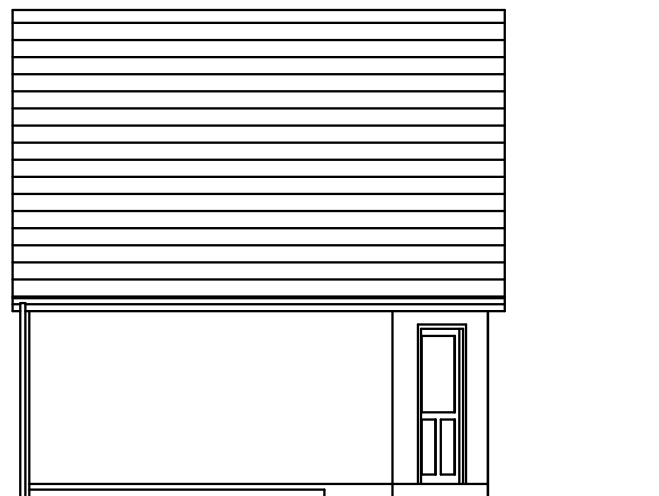
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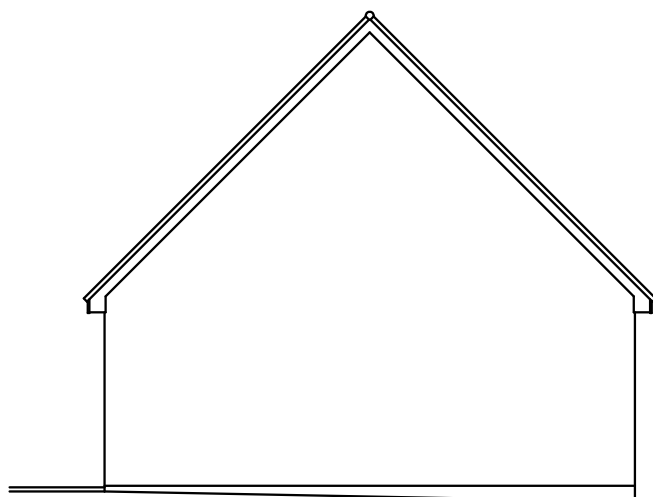
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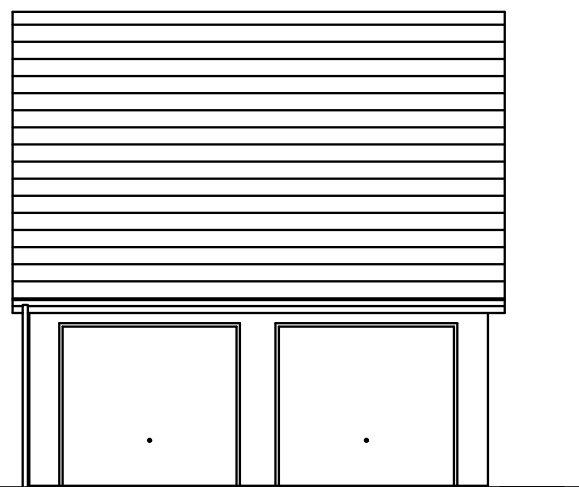
South West Elevation



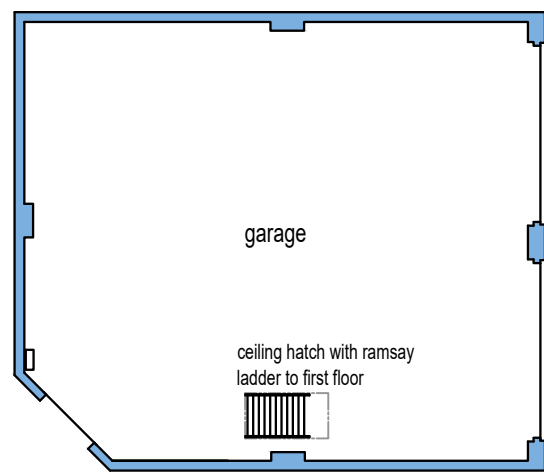
North West Elevation



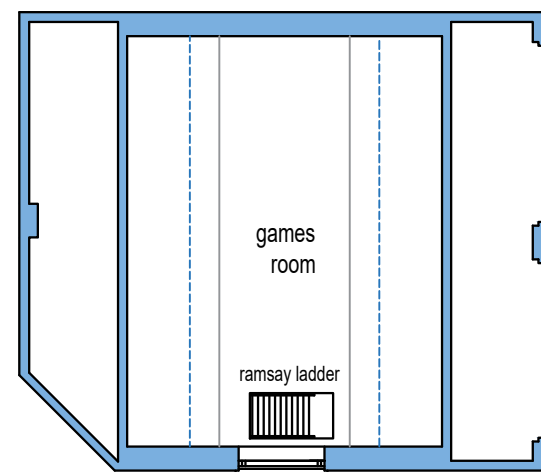
Section



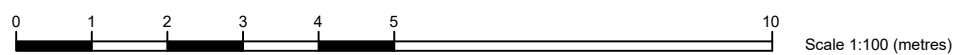
South East Elevation



Ground Floor Plan



First Floor Plan



REVISIONS			
Rev.	Description	Drawn	Date

Notes

**PLANNING APPLICATION**

Client  
 Lynne Cordiner

Project  
 Conversion of existing garage to form ancillary accommodation forming part of the house at 5 West Heather Road, Inverness

Drawing  
 Existing Garage

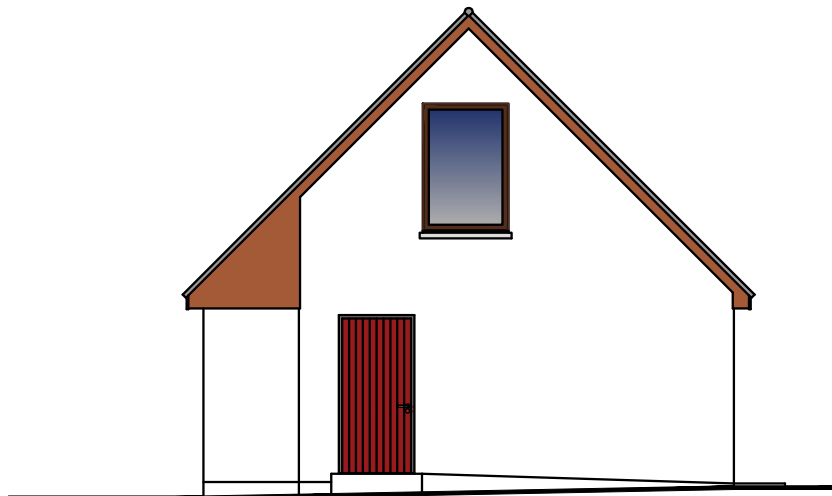
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Project no 2721	Dwg no PL004	Rev

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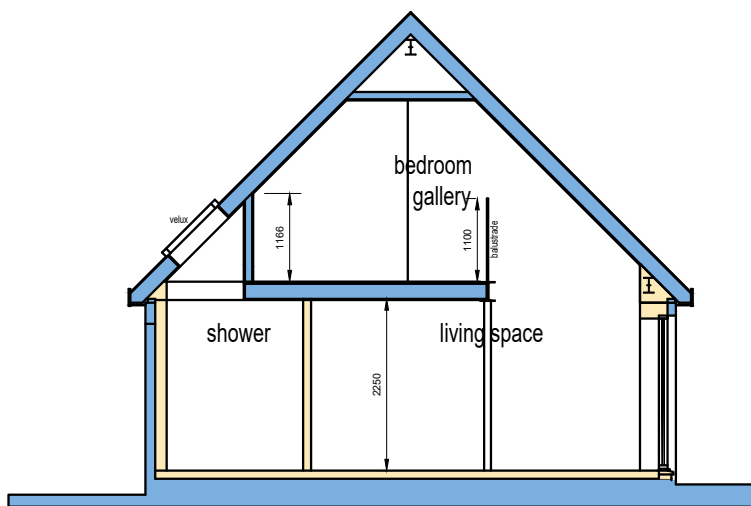
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South West Elevation



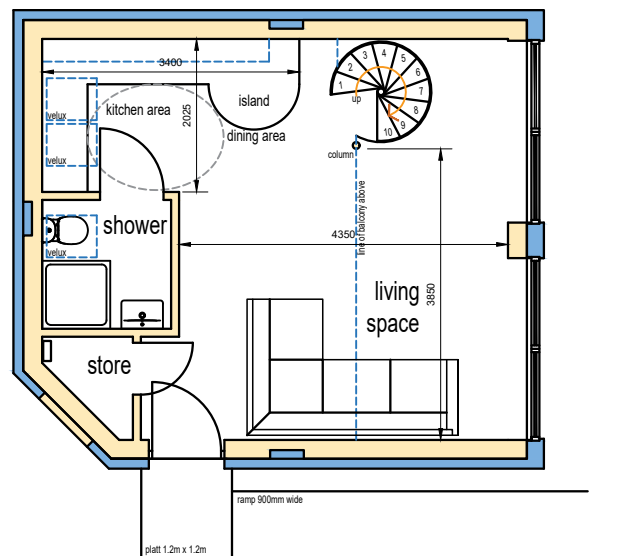
North West Elevation



Section

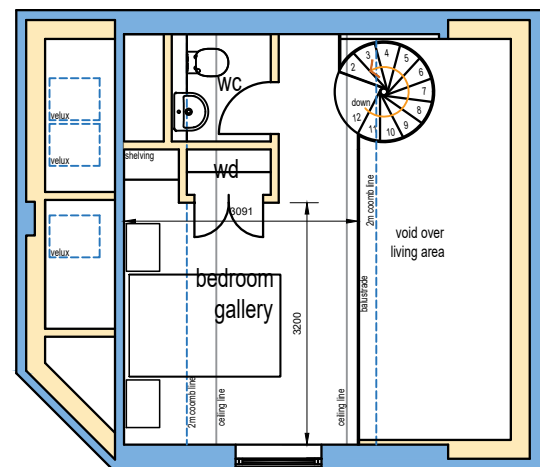


South East Elevation



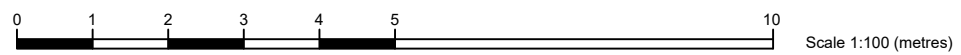
Ground Floor Plan

area : 34 sqm  
 (total floor area : 51sqm)



First Floor Plan

area : 17sqm



REVISIONS			
Rev.	Description	Drawn	Date

Notes

**PLANNING APPLICATION**

Client  
 Lynne Cordiner

Project  
 Conversion of existing garage to form ancillary accommodation forming part of the house at 5 West Heather Road, Inverness

Drawing  
 Proposed annexe  
 Floor Plans & Elevations

Scale 1:100@A3	Date 04.2021	Drawn by SR
Project no 2721	Dwg no PL005	Rev

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