Agenda Item	6.10
Report No	PLN/012/22

#### HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

Date: 29 January 2022

**Report Title:** 21/04707/FUL: Mr G Andrew

Land 35M SE of 56 Feddon Hill

Feddon Hill, Fortrose

**Report By:** Area Planning Manager - North

**Purpose/Executive Summary** 

**Description:** Erection of house

Ward: 09 - Black Isle

**Development category:** Local development

Reason referred to Committee: Number of objections received.

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 The application seeks detailed planning permission for a house, further to planning permission in principle 19/02828/PIP.
- 1.2 The site is currently undeveloped and is accessed of the Feddon Hill distributor road.
- 1.3 Pre-Application Consultation: 20/05000/PREAPP indicated that house would likely be acceptable on the site, subject to the provision of fuller information and a response to the conditions of the planning permission in principle.
- 1.4 Supporting Information: Design Statement, Private Access Checklist, Response Letters to Representations,
- 1.5 Variations: revised site plans, 7 December 2021, revised elevations and floor plans 21 December 2021, revised elevations and floor plans 10 January 2022

## SITE DESCRIPTION

2.

2.1 The site consists of part of a larger area of private land that lies on the south side of the cul de sac which serves the properties of 55-58 and 62 Feddon Hill, all of which are situated within the established residential neighbourhood of Feddon Hill, Fortrose. A footway runs along the full length of the northern boundary and immediately to the west of the site boundary is the hammerhead for the cul de sac, beyond which is the property No 62. No's 55-57 Feddon Hill lie on the northern side of the road, opposite the application site. No 58 Feddon Hill is located on the same side of the road as the application site and lies some 30m, or thereby, to the east of the eastern boundary of the plot. The land is covered with vegetation, with some more established tree cover. From the roadside the ground falls away steeply from north to south across the full depth of the site to the rear of the properties No's 86-91 Feddon Hill, which are at a much lower level.

#### 3. PLANNING HISTORY

3.1	9 October 2019	19/02828/PIP, Erection of house and garage				Application Permitted	
3.2	-	21/01247/MSC, garage	Erection	of	house	and	Application Withdrawn
		21/03839/FUL, garage	Erection	of	house	and	Application Withdrawn

#### 4. PUBLIC PARTICIPATION

4.1 Advertised: Ross-Shire Journal, Unknown Neighbour, 14 Days

Date Advertised: 22 October 2021

Representation deadline: 10 November 2021

Timeous representations: 7 from 7 households

Late representations: None

- 4.2 Material considerations raised are summarised as follows:
  - Concerns over the ridge height of the house and potential impact on the streetscene.
  - Concerns over the potential reduction in privacy and sunlight and daylight for neighbouring properties.
  - Concerns over surface water runoff from the application site.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <a href="https://www.wam.highland.gov.uk/wam">www.wam.highland.gov.uk/wam</a>.

#### 5. CONSULTATIONS

- 5.1 The Flood Risk Management Team: do not object to the application after initially objecting to the proposals, the Flood Risk Management team withdrew their objection on receipt of confirmation form the applicant that Scottish Water would permit surface water discharge to the sewer network, given the circumstances of the application site.
- 5.2 Scottish Water: do not object to the application there is sufficient capacity in the local water supply network to service the proposals and that there is no public wastewater infrastructure available. Scottish Water advised that the development may impact upon existing assets and that the applicant should contact Scottish Water directly to ensure that any potential conflict can be identified. They also issued their standard note that a surface water drainage connection would not normally be accepted into the public sewer network.

#### 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-making30 Physical Constraints
- 31 Developer Contributions
- 34 Settlement Development Areas
- 51 Trees and Development
- 64 Flood Risk
- 65 Waste Water Treatment
- 66 Surface Water Drainage
- 75 Open Space

## 6.2 Inner Moray Firth Local Development Plan 2015:

No site-specific policies apply

## 6.3 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011) Developer Contributions (March 2018) Flood Risk and Drainage Impact Assessment (Jan 2013) Managing Waste in New Developments (March 2013)) Sustainable Design Guide (Jan 2013) Trees, Woodlands and Development (Jan 2013)

#### 7. OTHER MATERIAL 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) siting, design and residential amenity
  - c) access and servicing
  - d) Impact on infrastructure and services and proposed mitigation (developer contributions)
  - e) any other material considerations.

## Development plan/other planning policy

8.4 The application site is located within the Settlement Development Area (SDA) and so Policy 34 of the Highland-wide Local Development Plan (HwLDP) applies. Policy 34 supports development proposals if they are not judged to be significantly detrimental in terms of the following matters: siting and design, pattern of development, and servicing, particularly in terms of roads and drainage. Policy 28 requires sensitive siting and high-quality design in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity. Policy 29 repeats the emphasis on good design in terms of compatibility with the local landscape setting

and in terms of place making. Policy 31 requires an assessment against the Developer Contributions policy. Under Policy 51, the Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. Policy 64 requires proposals to be assessed to the extent that they are at risk of or could exacerbate flooding. Policies 65 and 66 require foul and surface water drainage to meet standards that minimise the risk of pollution and flooding. Policy 75 seeks to protect quality and accessible open space from inappropriate development.

- Planning permission in principle, 19/02828/PIP has established the acceptability 8.5 of the site for a single house, subject to detailed siting, design and other matters. The assessment of this application highlighted that the neighbourhood of Feddon Hill was under development for more than twenty-five years, the final phase of terraced houses and flats being completed in late 2012. Planning permission RC/1988/1107 was granted for the erection of five houses in 1989 by the then planning authority, the Highland Regional Council. It appears from historic planning files that development commenced in relation to this planning permission. Two of the plots were built; No's 58 and 62 Feddon Hill. The remaining three houses were not completed at that time. The site layout plan submitted with the current application relates to the middle plot of the remaining three plots. It is noted that the plot boundary between No 62 and the adjacent undeveloped plot appears to have altered slightly since this house was built. The three of these plots correlate to Nos 59-61 of permission ref: RC/1988/1107. The design of house approved by this earlier planning permission was for split-level properties with a garage area under the main house, slightly below the level of the road and thereafter accommodation provided over a number of levels to address the sloping topography. Based on the evidence available from historic files it is considered that planning permission RC1988/1107 would appear to be extant. On this basis it should be noted the applicant could proceed to develop the approved house design on the plot without any further planning consent being required.
- 8.6 As noted above, the application site is located in an area marked as open space on the Inner Moray Firth Local Development Plan (IMFLPD) proposals maps. In this respect, the Development Plans Team were consulted during the assessment of the planning permission in principle for the site, 19/02828/PIP. They confirmed that it was possible, at the preparation of the IMFLDP that due to the undeveloped and unmaintained nature of the application site (and adjacent plots), combined with the topography and pattern of development the land was considered as an extension of the Craig Burn open / green space. In practice its value may be considered to be limited primarily to providing some general amenity value to the adjacent properties alone, without holding wider benefit. Permission ref: RC/1988/1107 clearly demonstrates that the site (and adjacent plots) was not intended to form open space and that this was accepted in planning terms at the time. The subsequent identification of the land as part of open space within development plan documents may not have taken full account of that planning history. As such, the current proposals do not raise further issues in terms of HwLDP Policy 75.

## Siting, Design and Residential Amenity

- 8.6 The current proposals represent a second iteration of the detailed design further. to withdrawn applications 21/03839/FUL and 21/01247/MSC. The proposed home is of a split-level design, roughly cruciform in plan. It measures approximately 18m in width x 9.5m in depth with a height to the roof ridge from the lowest adjacent ground level, of approximately 8m. In common with the neighbouring property, 58 Feddon Hill, consented under RC/1988/1107, the proposed house will take access to the attached garage and main door from the Feddon Hill public road, with the lower level looking out onto a narrow area of garden ground. It is proposed to finish the house in white render with vertical larch board cladding on the external walls and concrete interlocking roof tiles. The rear elevation incorporates a balcony. The house is of a similar design to the surrounding properties and maintains the indicative building line established along the south side of the public road by the neighbouring property 58 Feddon Hill. The split-level design minimises the degree of cut and fill necessary to incorporate the dwelling on the steeply sloping site. Approximately 350m<sup>2</sup> of private rear garden ground will be available following development, although not all of this will be usable in practice due to the site levels. Nevertheless, the proposals maintain a plot ratio of approximately 27% developed area. While the representation comments regarding the impact on the streetscene are acknowledged, the current design is generally in compliance with the considerations specified in the planning permission in principle for the site, 19/02828/PIP, in that the proposed ridge height is no greater than the ridge height of the neighbouring property, 58 Feddon Hill, excluding the integral garage. The applicant has also submitted revised drawings, in relation to the representations received, deleting a previously proposed wrap around element to the balcony and showing a hipped roof treatment to the northeast and southwest elevations. This brings the overall design more into line with that of 58 Feddon Hill adjacent. The siting and design therefore, are in accordance with HwLDP Policies 28, 29 and 34.
- 8.7 The principle residential amenity concerns relate to properties along the lower loop part of Feddon Hill, to the south of the application site, principally numbers 89, 88 and 87 Feddon Hill. Due to the siting of the proposal uphill and to the north of these properties, any overshadowing will fall mainly within the application site itself. As such, the impact in sunlight and daylight received by these properties will be minimal. The proposal does not raise direct window to window loss of privacy issues for these properties and the new house maintains a level distance of 18m between these properties and the proposed habitable room windows. The applicant has submitted a revised section that includes the balcony which shows the site levels with respect to the adjoining properties downhill. It was necessary to assess and gauge the potential for overlooking from the balcony on the adjoining neighbouring properties. It is considered that subject to the proposed boundary treatment, consisting of a 1.8m high timber fence around the rear garden area, and the screen planting, full details of which are to be secured via condition, to satisfactorily mitigate overlooking of these rear gardens from the proposed balcony. All garden ground within established residential areas is overlooked to some degree and the issue here is not considered as severe as to warrant refusal. The impact on neighbouring amenity is therefore, considered acceptable within the considerations of HwLDP Policies 28, 29 and 34.

## **Access and Servicing**

The proposed house will be accessed directly from Feddon Hill via a new 8.8 driveway. A condition is attached to ensure this access is formed to the Council's SBD3 standard in advance of development, to accommodate a dropped kerb crossing on the footway. The applicant has shown how two standard car parking spaces can be provided within the site, in accordance with the recommendations in the Council's Access to Single Houses and Small Housing Developments guidance for a property of this size. As Feddon Hill forms a cul de sac at this point, it is not considered necessary to seek vehicle turning space within the site. The applicant proposes a connection to the public water supply and sewer network. They have shown how surface water attenuation can be incorporated in the rear garden area, with an agreement in place for overflow to the Scottish Water sewer. The site is not within an area designated as at risk of flooding on the SEPA maps, nevertheless, several representations were received that raised concerns over runoff from the site. In this respect, the Flood Team have not maintained their initial objection following confirmation form the applicant that Scottish Water would permit surface water discharge to the sewer network. As such, the proposals are considered acceptable in terms of the road safety considerations of HwLDP Policies 28, 29 and 34 and the considerations of Policies 64, 65 and 66.

## **Developer Contributions**

8.9 Policy 31 requires that, where developments create a need for new or improved public services, facilities or infrastructure, the developer makes a fair and reasonable contribution in cash or kind towards these additional costs or requirements. Developer contributions have already been paid, under 19/02828/PIP, towards the expansion of Avoch Primary School, in the catchment area of which, the application site lies.

#### Other material considerations

8.10 None.

## Non-material considerations

8.11 The issue of concerns over the stability of the sloping ground to accommodate the proposed dwelling. raised in the representations, is noted. The stability of the ground conditions is not a material consideration within the scope of the planning system, rather a matter for consideration at the building warrant stage.

#### 9. CONCLUSION

9.1 The development plan policies direct the majority of development toward existing settlements. The site provides an opportunity to deliver a single house within an established residential area of Fortrose, on a site which appears to also have an extant planning permission. The proposed new dwelling is of a suitable scale and design and will not impact unacceptably upon the surrounding residential amenity.

9.2 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

Notification to Scottish Ministers N

Conclusion of Section 75 N

Obligation

Revocation of previous permission N

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

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

**Reason**: To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.

No other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines, with the junction formed to comply with drawing ref. SBD 3.

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

Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref: 1220.2380.104 REV C shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

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

- 4 No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
  - iv. A programme for preparation, completion and subsequent ongoing maintenance and protection of all landscaping works.

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

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

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

5 Prior to the first occupation of the development hereby approved, a 1.8m close boarded timber fence shall be erected around the side and rear boundaries of the dwelling curtilage and thereafter maintained in perpetuity.

**Reason**: In order to safeguard the amenity of the residents of 87 - 89

Feddon Hill

#### **REASON FOR DECISION**

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.

# 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.

- 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.

## **Septic Tanks and 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads and pavements/101/permits for working on public roads/2

#### Mud and Debris on Road

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

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and

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

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

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

## **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: <a href="https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species">https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species</a>

Designation: Area Planning Manager - North

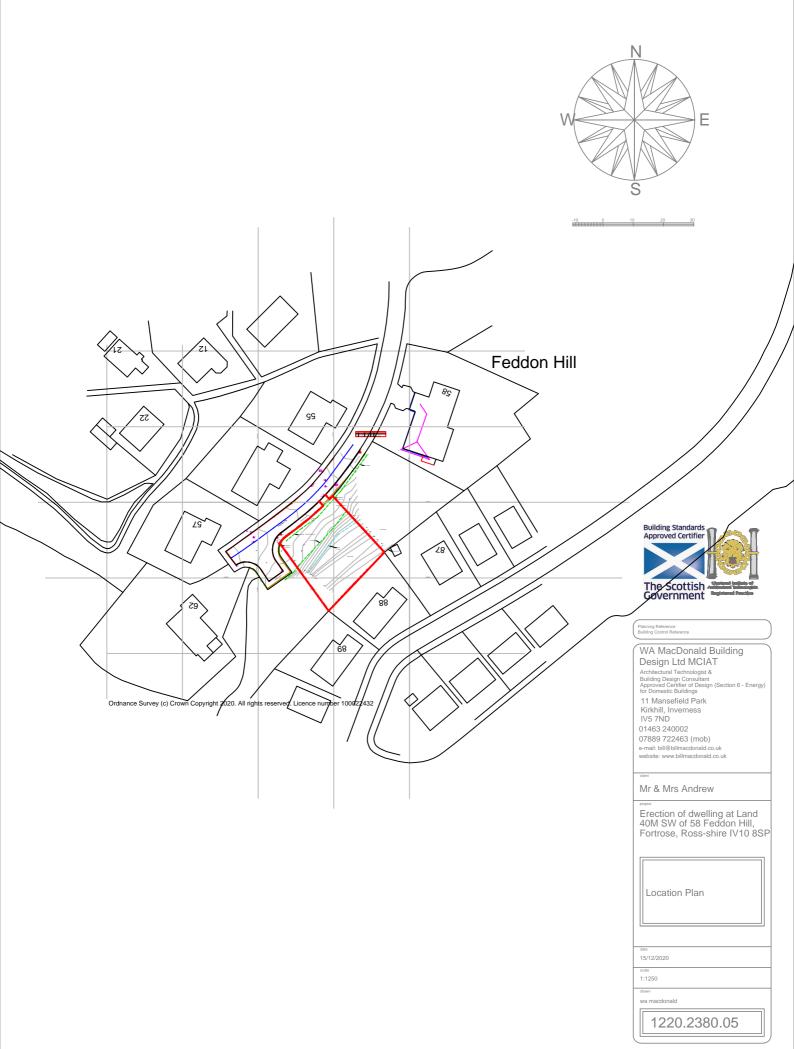
Author: Michael Kordas

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

## Relevant Plans:

Document Type	Document No.	Version No.	<b>Date Received</b>	
Location Plan	1220.2380.05		4 October 2021	
Site Layout Plan	1220.2380.104	REV C	10 January 2022	
Elevations	1220.2380.102	REV D	10 January 2022	
Floor Plans	1220.2380.101	REV C	10 January 2022	
Section Plan	1220.2380.106	REV A	12 January 2021	

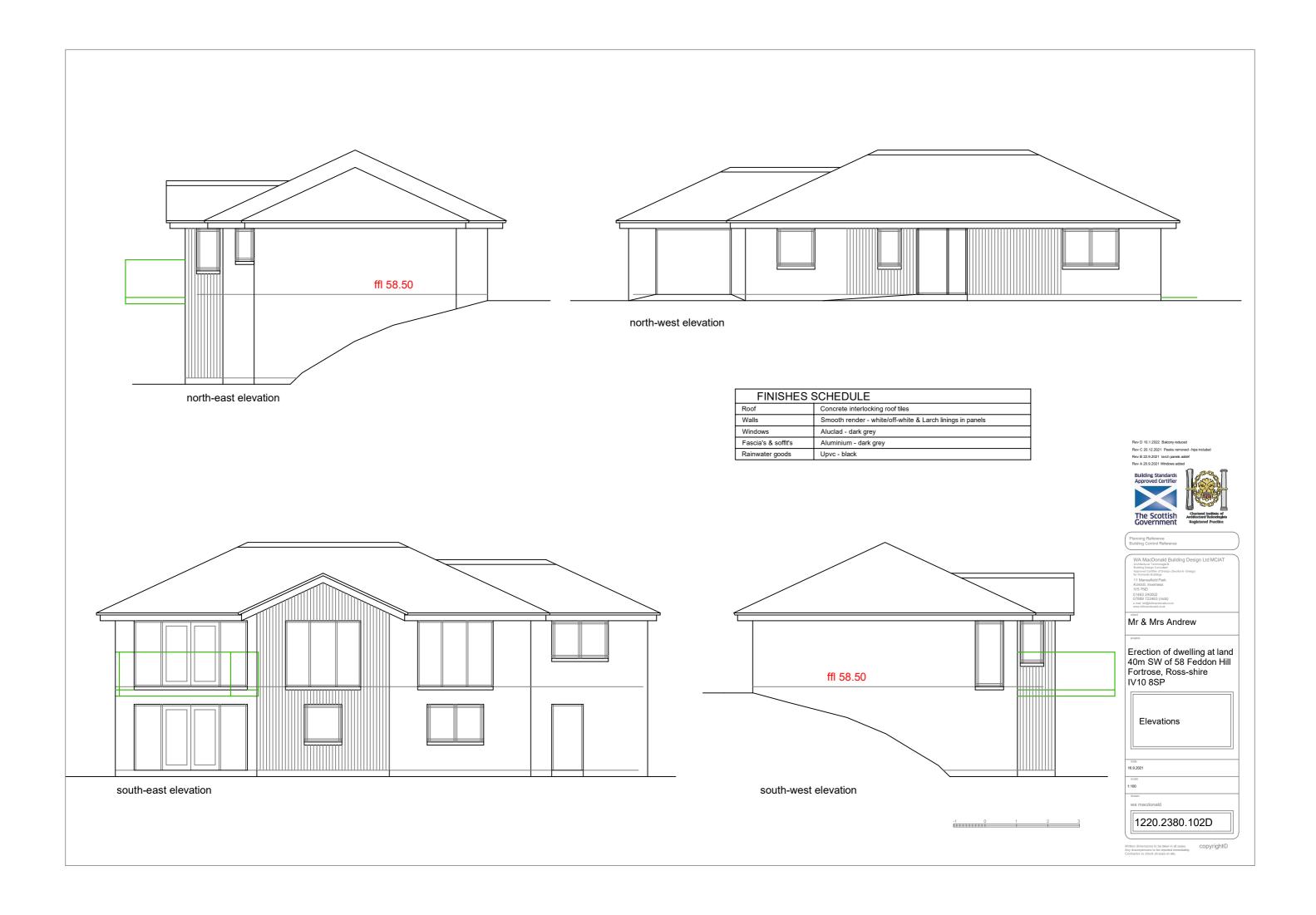
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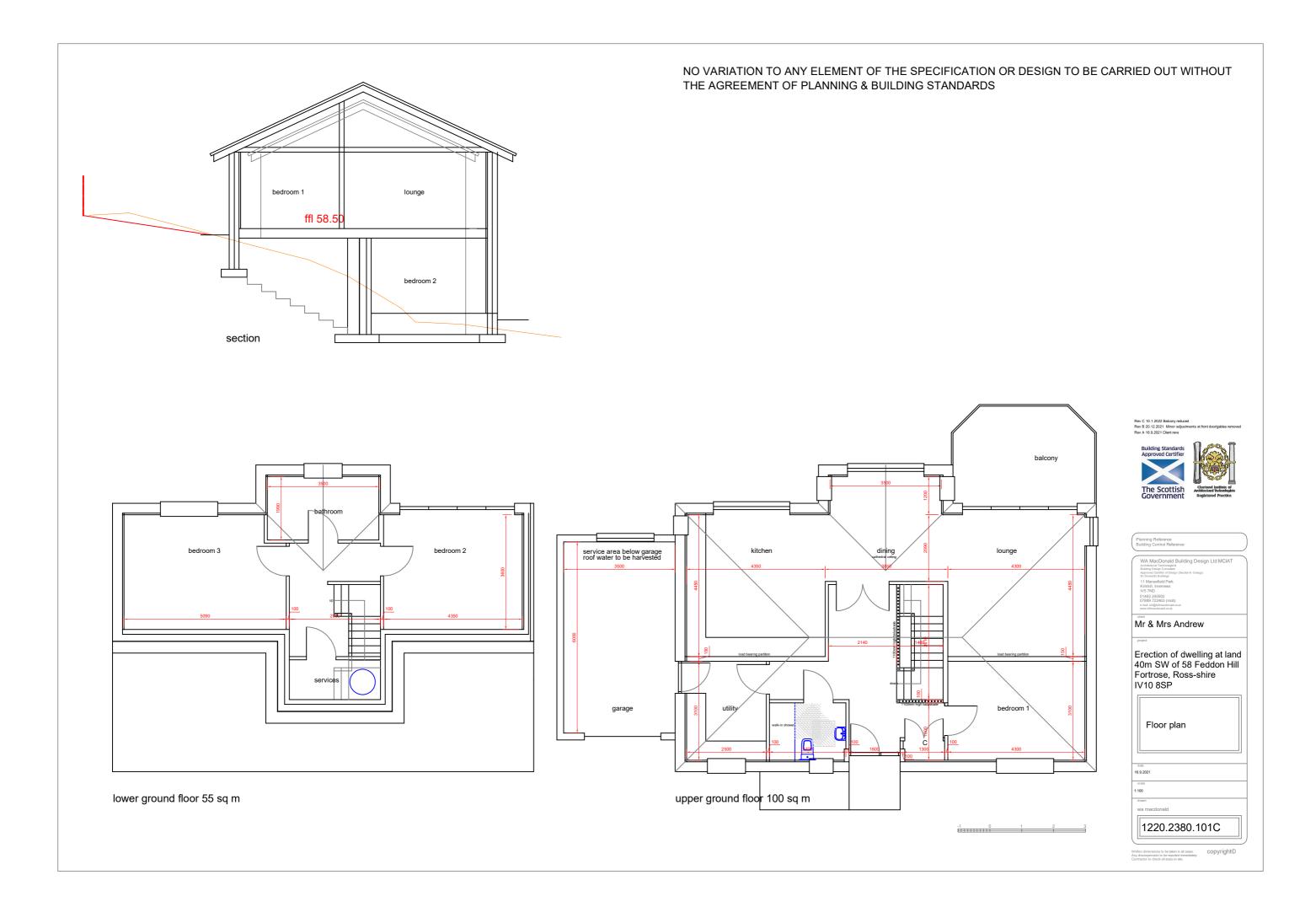


Written dimensions to be taken in all cases.

Any discrepencies to be reported immediately.







NO VARIATION TO ANY ELEMENT OF THE SPECIFICATION OR DESIGN TO BE CARRIED OUT WITHOUT THE AGREEMENT OF PLANNING & BUILDING STANDARDS Rev A 12.1.2022 Balcony added 63.33 max ridge height (per PP 19/02828/PIP dated 9th October 2019) SCOTTISH WATER COMMENT
There may be limited exceptional circumstances where we would allow such a connection however this will require significant justification taking account of various factors. Mr & Mrs Andrew road 58.70 ffl 58.50 Erection of dwelling at land 40m SW of 58 Feddon Hill Fortrose, Ross-shire IV10 8SP ridge level number 88 - 53.83 Site section section on A - A floor level number 88 - 48.51 garage floor level number 88 - 47.19 1220.2380.106A road 46.02