

Agenda Item	7.9
Report No	PLS-14-23

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 08 February 2023
Report Title: 22/00433/FUL: Mrs A Findlay and Mrs C Scott
Balvattan Beag, Boat of Garten, PH24 3BX
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Erection of holiday accommodation annex
Ward: 20 – Badenoch and Strathspey
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 The proposal is for self-contained holiday accommodation within the garden ground of Balvattan Beag. The single storey 1-bedroom self-contained holiday accommodation will be finished with timber effect cladding to the walls and corrugated metal sheeting roof.
- 1.2 The existing tourist accommodation Balvattan Beag has public mains water and sewerage with an existing access to the A95 trunk road. The proposal will connect to the public water network and the existing septic tank at the site. The existing access track from the A95 trunk road will be upgraded with additional parking provision for a 2 more cars at the site.
- 1.3 Pre-Application Consultation: A Development Enquiry was submitted (20/00320/PDENQ) for the construction of a self-contained “eco pod” in the garden ground of Balvattan Beag. It was confirmed planning permission would be required with an application submitted (21/04853/FUL). This was withdrawn due to a lack of clarity regarding the use of the unit with the scale, design and materials amended for the current application. Additionally, enforcement cases for unauthorised work to Balvattan Beag and the siting of a caravan at the site were submitted and closed previously.
- 1.4 Supporting Information: Supporting Statement
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 Garden ground of Balvattan Beag, which lies approximately 4km to the northeast of Boat of Garten. The existing access links to the A95 trunk road to the east. The site is part of a small, dispersed housing group with Blinkbonny to the northwest and The Freewheel to the northeast. Balvattan Beag is surrounded by trees along the site boundary. The wider site is enclosed by mature trees to the northeast which is designated as Ancient Woodland. Balvattan Beag is used as tourist accommodation with a retrospective planning application currently pending consideration (22/04733/FUL).

3. PLANNING HISTORY

- | | | | |
|-----|------------|---|-----------------------|
| 3.1 | | 22/04733/FUL: Use of property as short-term letting accommodation or house | Pending consideration |
| 3.2 | 28.01.2022 | 21/04853/FUL: Erection of ancillary annex | Application withdrawn |
| 3.3 | 28.01.2020 | 20/00320/PDENQ Eco pod, 6 square metres, to be a self-contained unit for 2 people, to be situated in the garden for holiday rental purposes | Closed |
| 3.4 | 05.03.2019 | 19/00041/FUL: Siting of caravan for tourism | Application |

		purposes	returned
3.5	03.12.2012	12/03307/FUL: Proposed replacement of existing Dorran construction house with new low carbon house. Existing foundations and underbuilding to be retained.	Planning permission granted
3.6	01.06.2009	09/00108/FULBS: Removal of existing rear porch and erection of extension	Planning permission granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 Development and Unknown Neighbour

Date Advertised: 17.02.2022

Representation deadline: 03.03.2022

Timeous representations: 6 timeous representations (from 6 households)

Late representations: 2 additional late representations (from 1 household noted above)

4.2 Material considerations raised are summarised as follows:

- a) Does not accord with the Development Plan
- b) Over provision of tourist accommodation in the area
- c) Adverse impact on neighbour amenity
- d) Inappropriate access arrangements
- e) Overdevelopment
- f) Noise
- g) Lighting
- h) Unauthorised tourist accommodation at Balvattan Beag adjacent

Non-material considerations raised are summarised as follows:

- a) Behaviour of guests and type of groups using the facility
- b) Will set a precedent for future applications
- c) Land ownership

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.

5. CONSULTATIONS

5.1 **Scottish Water:** No objections. The development will connect to the Aviemore Water Treatment Works with no public wastewater infrastructure within the vicinity.

5.2 **Forestry Officer:** No objections. To safeguard tree protection a Tree Planting Plan is required prior to development and is controlled by condition.

5.3 **Transport Scotland:** No objections. To safeguard the visibility splays onto the A95 trunk road the access is to be upgraded and controlled by condition. An Informative

regarding works within the trunk road boundary is also attached.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Cairngorms National Park Local Development Plan 2021

Policy 2	Supporting Economic Growth
Policy 3	Design and Placemaking
Policy 4	Natural Heritage
Policy 10	Resources

6.2 Local Development Plan Policy Guidance

Policy 2	Supporting Economic Growth (non-statutory guidance)
Policy 3	Design and Placemaking (non-statutory guidance)
Policy 4	Natural Heritage (supplementary guidance)
Policy 10	Resources (non-statutory guidance)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (as amended December 2020)

National Planning Framework 3

Non-statutory Short-Term Secondary Letting Planning Policy

Revised Draft National Planning Framework 4 (NPF4)

Policy 30 - Tourism

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) Use as holiday accommodation
- c) Impact on amenity

- d) Access arrangements
- e) Design and scale
- f) Resources
- g) Any other material considerations

Development plan/other planning policy

- 8.4 The proposal is assessed against the policies within Cairngorms National Park Local Development Plan (2021). Policy 2 – Supporting Economic Growth: 2 Tourism and leisure development supports tourist accommodation which extends the core tourist season, makes a positive contribution to the experience of visitors and has no adverse environmental impact on the site or neighbouring areas.
- 8.5 Policy 3 - Design and Placemaking requires, amongst other things, proposals to demonstrate sensitive siting and design that respect the traditional pattern and character of the area as well as the amenity of neighbours. The CNPA Policy 3 Design and Placemaking Non-statutory Planning Guidance identifies that proposals must be sited to provide adequate curtilage to ensure both an appropriate “fit” with the group, and the provision and maintenance of an adequate level of residential amenity for the existing dwellings and new unit. The site is generally considered to form part of a dispersed rural group made up of Blinkbonny to the northwest and The Freewheel to the northeast. The garden ground is considered sufficiently spacious to accommodate holiday accommodation annex along with the associated services.
- 8.6 Across the site there is a mixture of tree cover with a number of trees/shrubs along the west, north and northeast site boundary. Policy 4 - Natural Heritage looks to retain woodland/trees where possible and a Tree Planting Plan has been requested by the Forestry Officer to reintroduce landscaping to this part of the garden ground and help soften the visual impact of the development, this is controlled by condition.
- 8.7 Policy 10 - Resources states that new development must have adequate drainage arrangements on site. The Council's preference is for a connection to the public water supply and sewer. If this is not available appropriate private drainage arrangements will be supported. The self-contained holiday accommodation will connect to the existing septic tank used by Balvattan Beag.
- 8.8 The proposal is considered to broadly comply with Policies 2, 3, 4 and 10 of the Development Plan.
- 8.9 The application has attracted a number of representations raising concerns which require further detailed consideration along with the above policies.

Use as Holiday Accommodation

- 8.10 Development Plan Policy 2 – Supporting Economic Growth: 2 Tourist accommodation offers strong support for the principle of this type of development subject to no adverse environmental or amenity impacts on the site or neighbouring areas; contribute to/support the provision of a wide range of visitor accommodation

options including low-cost accommodation; and support or contribute to a year round economy. Additionally, the proposal has to satisfy other relevant planning policies on sustainable design, natural heritage and servicing. The proposal generally complies with Policy 3 - Design and Placemaking, Policy 4 - Natural Heritage and Policy 10 - Resources as the proposal is considered appropriate, will not have a detrimental impact on wider natural heritage interests and there is capacity for connection to services. A condition is attached limiting the use to self-contained holiday accommodation.

- 8.11 Balvattan Beag adjacent has been operating for some time as self-contained holiday accommodation. A retrospective planning application (22/04733/FUL) is currently pending consideration and will be assessed against the relevant criteria within the Development Plan and all other applicable guidance.

Impact on Amenity

- 8.12 A number of representations relate to potential noise from occupants of the annex, and in particular noise late at night. While these are legitimate concerns it is not considered that conditions attached to a grant of planning permission is the appropriate tool to control what amounts to potential anti-social behaviour. Such powers lie with Police Scotland and/or Environmental Health should disturbance become a statutory nuisance. The air source heat pump is installed on the southeast rear elevation.
- 8.13 In terms of the location of the development, it is set within a large garden that can accommodate the single storey 1 bedroom holiday accommodation annex and is some distance from the nearest surrounding residential properties. Existing mature trees define the east, north and northwest site boundary; the additional landscaping requested will provide further screening and protection to surrounding residents.
- 8.14 Members will be aware that the use of properties for short term holiday accommodation has increased recently with so called “party houses” also on the increase. There is no indication that this will be used other than for short term holiday accommodation given the relatively small scale of the proposal.

Access Arrangements

- 8.15 Representations suggest that the access from the A95 trunk road is inadequate for further self-contained holiday accommodation. Transport Scotland was consulted regarding the proposal and has no objection to the proposal subject to the construction of the new upgraded access with improved visibility as per Drawing No. 2756/PL004 Rev C. (dated 10.03.2022). This can be controlled by condition.
- 8.16 Additionally, representations question the capacity of the existing access track to accept additional traffic. It does not seem possible to demonstrate conclusively that the upgraded access is incapable of accepting the traffic generated by the additional single bedroom self-contained holiday accommodation.
- 8.17 There is sufficient parking and turning space for 2 cars within the site which will be controlled by condition.

Design and scale

- 8.18 The proposal is for a relatively small (7.8m x 6.2m x 5m) single room, detached, single storey holiday accommodation annex. The footprint has approximately halved following amendments to the previous application which was withdrawn (21/04853/FUL). The short-term holiday accommodation is subservient to Balvattan Beag adjacent and considered a modern interpretation of a traditional form with a mix of finishes with timber effect Cedral cladding, metal corrugated roof, and a mix of French doors and full-length glazing to the rear southeast elevation. The specification of materials will be controlled by condition.

Resources

- 8.19 In order to control surface water drainage from the roof, and surface water run-off within and from outwith the site, a condition is recommended in relation to the provision of further technical details.
- 8.20 The proposal will connect to the public water network and the existing septic tank at the site.

Other material considerations

- 8.21 There are no other material considerations.

Non-material considerations

- 8.22 The behaviour of guests and type of groups using the facility is not a material planning consideration and is a management issue for the owner.
- 8.23 This application has been assessed on its own merits. Any future applications for tourist accommodation will be assessed against the relevant criteria within the Development Plan and all other applicable guidance.
- 8.24 Land ownership is not a material planning consideration and is civil matter.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.25 None

9. CONCLUSION

- 9.1 The Development Plan promotes economic development that enhances tourism. This of course has to be balanced alongside the amenity currently enjoyed by neighbours. The development of a relatively small-scale annexe for tourism is considered to be appropriate for this location and accords with the Development Plan. Policy 30 of the Revised Draft NPF4, which it is anticipated will be adopted by Scottish Ministers on 13 February 2023, and thereby become part of the Development Plan, provides similar safeguards in respect of the environment, amenity and character of the area. The specific concerns raised by neighbours regarding the impact on amenity, while perhaps justified, are matters more appropriately considered, and potentially controlled, by others such as the

Environmental Health and Police Scotland, not Planning.

- 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	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

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

1. 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.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year

Reason: To ensure that the development does not become used for permanent residential occupation in the interest of the area's visual amenity, in recognition of the lack of private amenity space and in accordance with

the use applied for.

3. No development or work shall commence until a detailed specification for all proposed external materials and finishes (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: In order to enable the planning authority to consider this matter(s) in detail prior to the commencement of development; in the interests of amenity.

4. Prior to the first occupation of the development hereby approved, 2 car parking spaces shall be provided within the application site. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

5. A vehicle turning area shall be provided within the application site formed in accordance with The Highland Council's Road Guidelines for New Developments. The turning area shall be provided prior to the first use of the development and thereafter maintained as a turning area in perpetuity.

Reason: To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

6. No development shall commence until a Tree Planting Plan and maintenance programme has been submitted to and approved by the Planning Authority. The Tree Planting Plan shall contain the planting of at least three standard sized trees and shall be implemented in full during the first planting season following commencement of development or as otherwise agreed in writing by the Planning Authority.

Reason: In the interests of amenity.

7. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Fourth Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented, and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

8. Prior to the commencement of development, the existing access on the A95 trunk road shall be upgraded and the visibility splays provided and maintained thereafter, shown on Drawing No. 2756/PL004 Rev C. (dated 10.03.2022) to the satisfaction of the Planning Authority in consultation with the Roads Authority.

Reason: To ensure that vehicles entering or existing the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

9. There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure the efficiency of the existing drainage network is not affected.

REASON FOR DECISION

The development of a relatively small-scale annexe for tourism is considered to be appropriate for this location and accords with the Development Plan policies.

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.

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).

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 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>

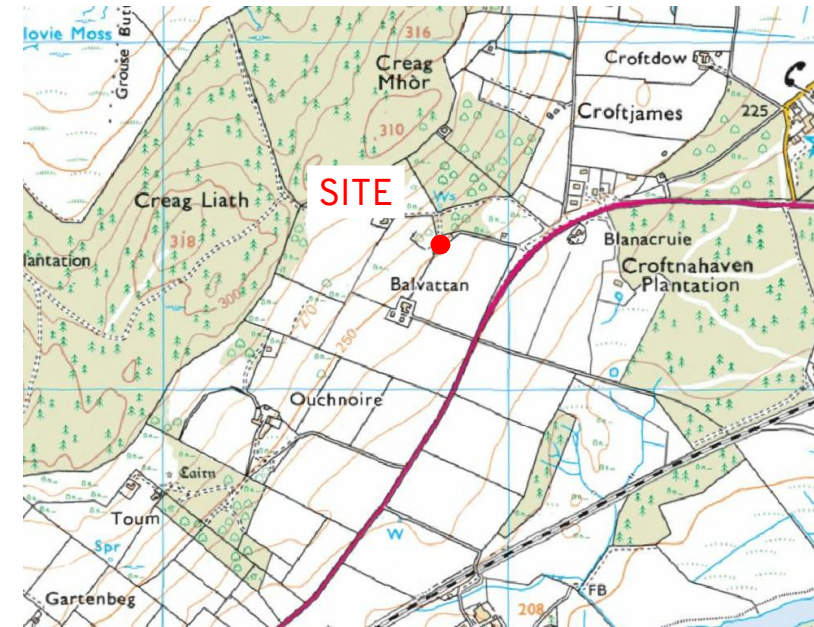
Transport Scotland

The granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

Signature: David Mudie
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 2756-PL001 REV C
Plan 2 - Site Layout Plan 2756-PL002 REV C
Plan 3 - Floor/Elevation Plan 2756-PL003 REV A

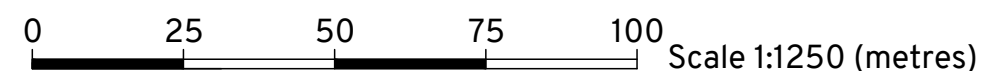


ORDNANCE SURVEY PLAN NTS



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LOCATION PLAN 1:1250



C	Footprint reduced	DC	01.02.2022
Rev.	Description	Drawn	Date



G H Johnston Building Consultants Ltd
 Planning & Architecture

Willow House, Stoneyfield Business Park
 Inverness, IV2 7PA
 technical@ghjohnston.co.uk
 Tel: 01463 237229
 www.ghjohnston.co.uk

Client
Annabel Findlay

Project
New Annexe in garden ground of Balvattan Beag Boat of Garten

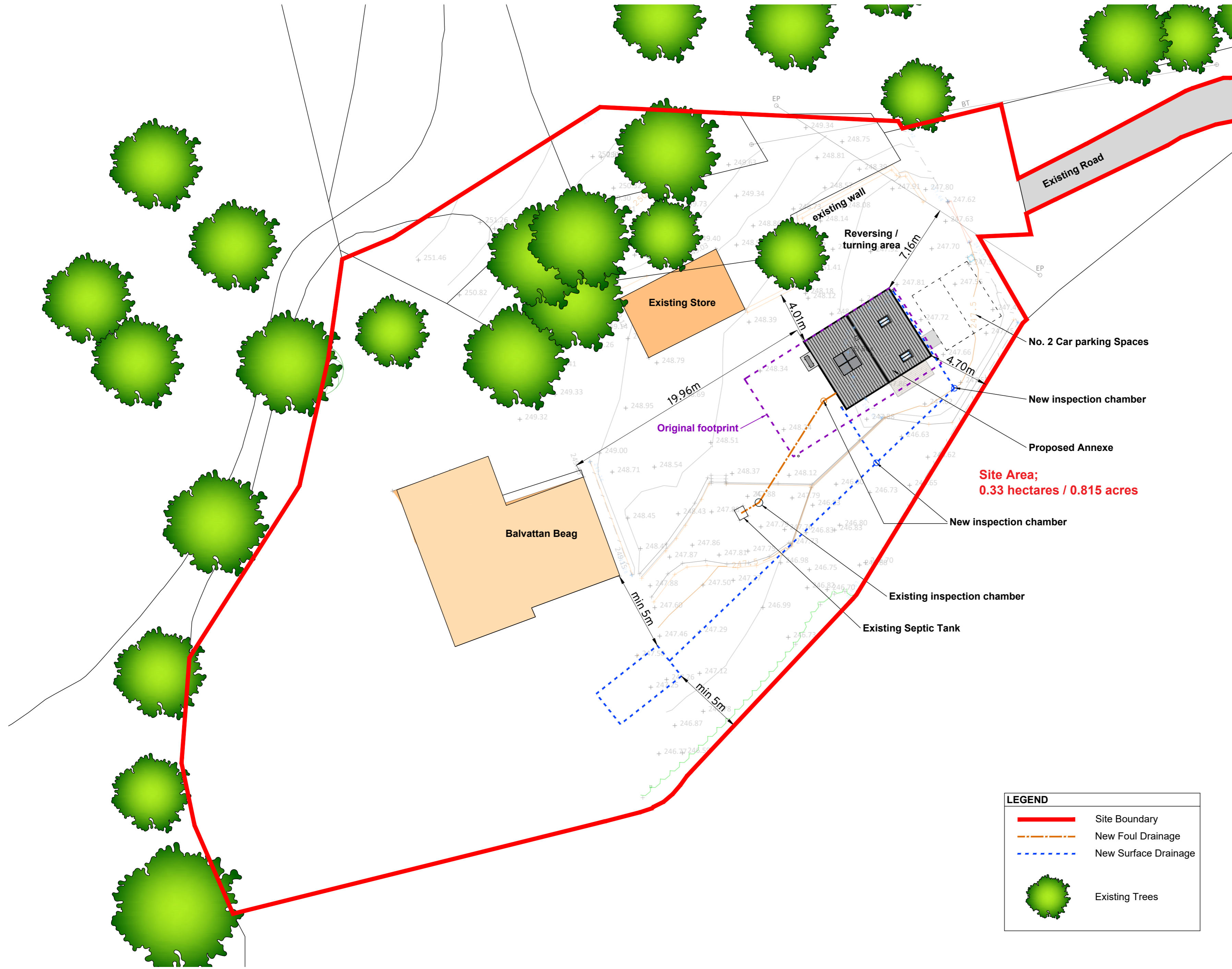
Drawing
Location Plan

Status
PLANNING

Scale 1:100 Date 01.02.2022

Sheet A3 Drawn by DC

Drawing No: **2756 / PL 001** Rev **C**



C	Redesign of Annexe	DC	01.02.2022
Rev.	Description	Drawn	Date



G H Johnston Building Consultants Ltd
 Planning & Architecture
 Willow House, Stoneyfield Business Park
 Inverness, IV2 7PA
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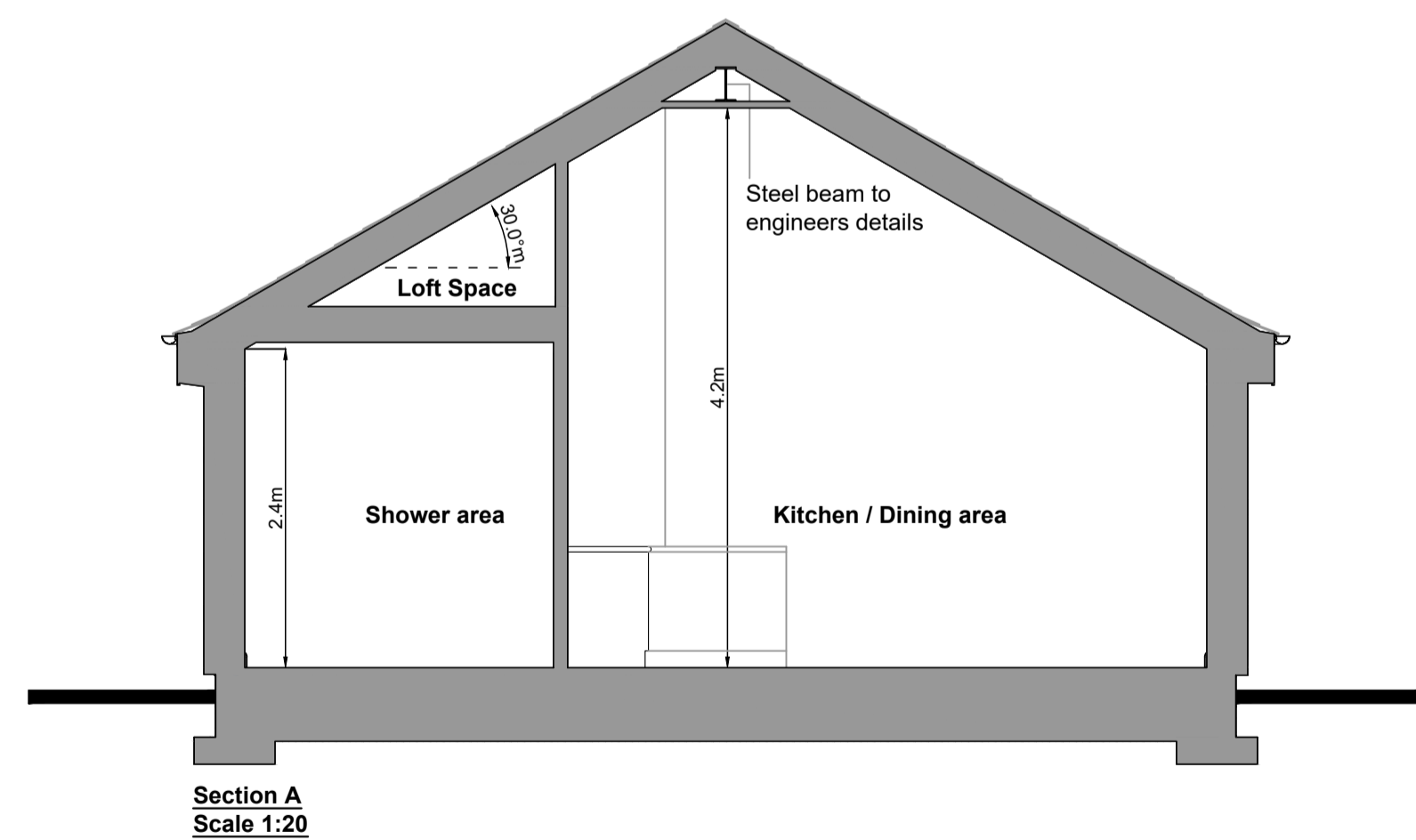
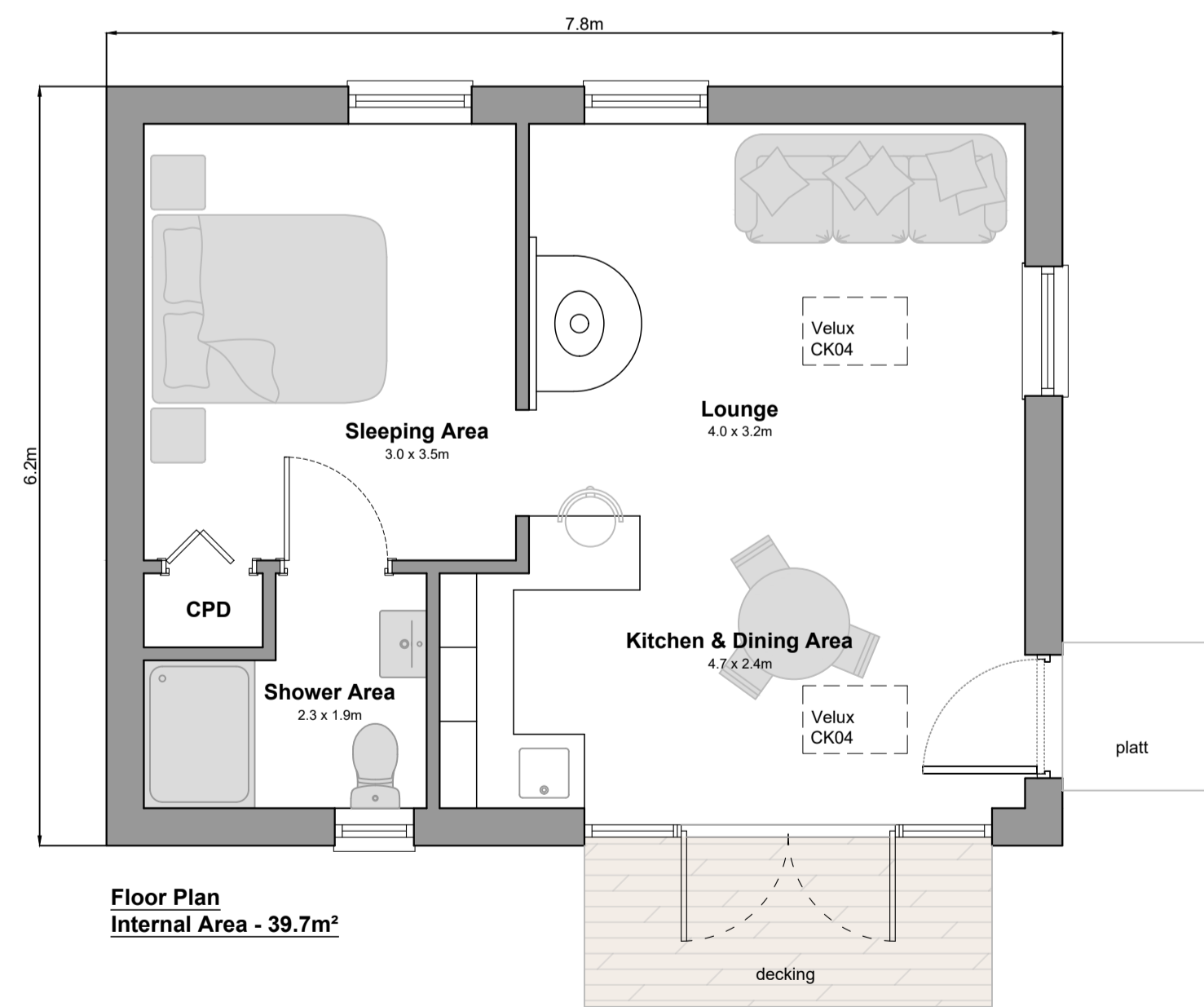
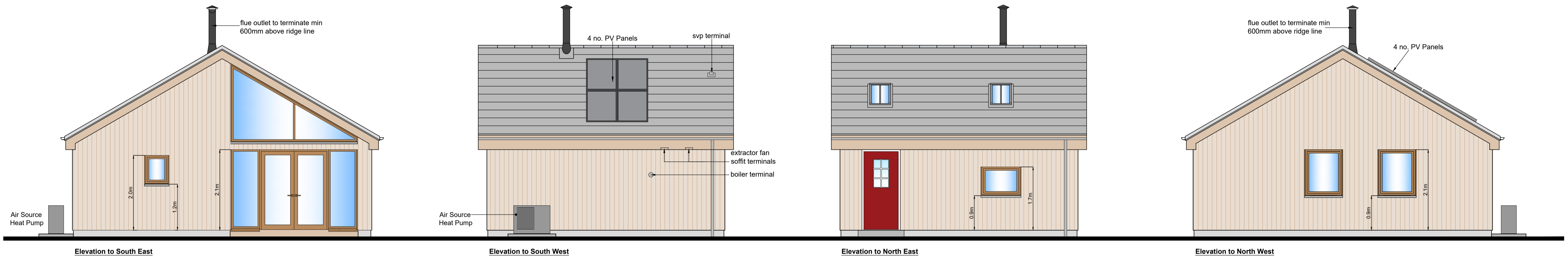
Drawing
Site Plan

Status
PLANNING

Scale 1:200 Date 07/01/22

Sheet A2 Drawn by DC

Drawing No: **2756 / PL 002** Rev **C**



External Materials:
 Roof: Corrugated metal sheeting
 Walls: Western Red Cedar planking with Marley
 Fascias etc: Western Red Cedar planking.
 RWP's etc: Lindab Aluminum in grey.
 Windows: Nordan Timber pre-finished.
 Doors: Nordan timber pre-finished
 *All dimensions are to finished floor level

Rev.	Description	DC	Drawn	Date
A	Size of building reduced	DC		01.02.2022

G H Johnston Building Consultants Ltd
 Planning & Architecture
 Willow House, Stoneyfield Business Park
 Inverness, IV2 7PA
 technical@ghjohnston.co.uk Tel: 01463 237229
 www.ghjohnston.co.uk

Client
Annabel Findlay
 Project
New Annexe in garden ground of Balvatten Beag Boat of Garten
 Drawing
Floor Plans, Elevations & Section

Status	PLANNING		
Scale	1:50	Date	01.02.2022
Sheet	A1	Drawn by	DC
Drawing No:	2756 / PL 003	Rev	A