

	Agenda item	<b>8.5</b>
	Report no	<b>HLC/132/24</b>

**THE HIGHLAND COUNCIL**

**Committee: THE HIGHLAND LICENSING COMMITTEE**

**Date: 26 November 2024**

**Report title: Application for the grant of a short term let licence – Garrisdale Cottage, MacArthur’s Cottage and Burnbank Cottage, Isle of Canna, PH44 4RS (Ward 11 – Caol and Mallaig)**

**Report by: The Principal Solicitor – Regulatory Services**

**1. Purpose/Executive Summary**

1.1 This report relates to an application for the grant of a short term let licence.

**2. Recommendation**

2.1 Members are asked to determine the application in accordance with the Council’s hearings procedure.

### **3. Background**

- 3.1 In terms of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, a licence is required for residential accommodation for use as a short term let.
- 3.2 In terms of the abovementioned Act, the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 30 November 2024. Failure to determine the application by this time would result in the application being subject of a `deemed grant' which means that a licence would require to be issued on 30 November 2024 for a period of 12 months. The application is before this Committee as this is the last meeting before the determination date expires.
- 3.3 Short term let means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met:
- The guest does not use the accommodation as their only or principal home
  - The short term let is entered into for commercial consideration
  - The guest is not:
    1. An immediate family member of the host
    2. Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
    3. an owner or part-owner of the accommodation
  - the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household
  - the accommodation is not excluded accommodation, and
  - the short-term let does not constitute an excluded tenancy

### **4. Application**

- 4.1 On 1 March 2024 a validated application for the grant of a short term let licence was received from Mr Murdo Jack.
- 4.2 The properties to which the application relates are Garrisdale Cottage, MacArthur's Cottage and Burnbank Cottage, Isle of Canna, PH44 4RS (the "Premises").
- 4.3 The application for the short term let licence has been made on the basis that the said Mr Jack will be the host/operator of the Premises. The applicant has applied as a 'new host' and, as such, the host/operator cannot operate the premises as a short term let until they have obtained a licence.
- 4.4 Mr Jack is named on the application as the owner of the Premises.
- 4.5 The person named on the application as being responsible for the day-to-day management of the Premises is the said Mr Jack.
- 4.6 The type of letting which has been applied for is 'secondary letting', which means the host/operator is letting a property where they do not normally live.

4.7 The Premises comprise of three self-catering detached properties. Garrisdale Cottage and MacArthur's Cottage can each accommodate a maximum capacity of 6 guests. Burnbank Cottage can accommodate a maximum capacity of 4 guests. Floor plans of Garrisdale Cottage and MacArthur's Cottage can be found on page 1 of Appendix 1 to this report (**Appendix 1**) and a floor plan of Burnbank Cottage can be found on page 2 of Appendix 1.

## **5. Process**

5.1 The application was circulated to the following Agencies/Services for consultation:

- Police Scotland;
- Scottish Fire & Rescue Service;
- Highland Council Environmental Health Service; and
- Highland Council Building Standards.

5.2 Police Scotland, the Highland Council's Environmental Health Service and the Highland Council Building Standards have all confirmed that they have no objections to the application.

### **5.3 Scottish Fire & Rescue Service**

The Scottish Fire & Rescue Service have indicated that they cannot support the issuing of the licence until all required improvement measures have been put in place. Scottish Fire & Rescue Service have contacted the Applicant to advise them of such improvement measures and, at the time of writing, the Licensing Team await an update from the Applicant and Scottish Fire & Rescue Service on such improvement measures being completed. If available, a verbal update can be provided to the Committee by the Principal Solicitor - Regulatory Services.

5.4 Until the outstanding matter detailed at paragraph 5.3 above has been addressed, the Principal Solicitor - Regulatory Services cannot issue the licence under delegated powers. As detailed in paragraph 3.2, the application requires to be determined by 30 November 2024.

## **6. Certificate of Compliance**

6.1 The applicant has yet to return a certificate of compliance, which confirms that a public notice of application for their short term let licence was displayed at or near the Premises for a period of 21 days. Such certificate of compliance must be completed by the applicant and returned to the licensing team as confirmation that the public notice of application has been displayed in terms of the legislation, before the licence can be issued.

If available, a verbal update can be provided to the Committee by the Principal Solicitor - Regulatory Services.

## 7. Determining issues

7.1 Paragraph 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 states that a licensing authority may refuse an application to grant or renew a licence where:

- a) The applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either:
  - i. for the time being disqualified under section 7(6) of the Civic Government (Scotland) Act 1982, or;
  - ii. is not a fit and proper person to be the holder of the licence.
- b) The activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such licence if he made the application himself;
- c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—
  - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
  - (ii) the nature and extent of the proposed activity;
  - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
  - (iv) the possibility of undue public nuisance; or
  - (iv) public order or public safety; or
- d) there is other good reason for refusing the application.

If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

7.2 A copy of this report has been sent to the applicant and the Scottish Fire and Rescue Service who, in the terms of paragraph 4(2) of the Civic Government (Scotland) Act 1982, have been invited to attend and will be provided with an opportunity to be heard by the Committee.

7.3 Both parties have also been advised of the procedure which will be followed at the meeting which may also be viewed via the following link:

[Licensing hearings procedures | Licensing hearings procedure \(Licensing Committee\) \(highland.gov.uk\)](https://www.highland.gov.uk/licensing-hearings-procedures)

## 8. Policies

The following policy is relevant to this application:

- Short-term let licensing policy statement (which includes the mandatory and additional licence conditions attached to all Short Term Let Licences):-

A copy of this policy can accessed [here](#) or a hard copy can be supplied where requested.

## 9. Implications

9.1 Not applicable.

Date: 7 November 2024

Author: Julie Traynor

Reference: [FS550435077](#)

Background Papers:

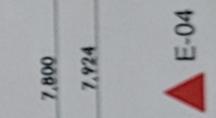
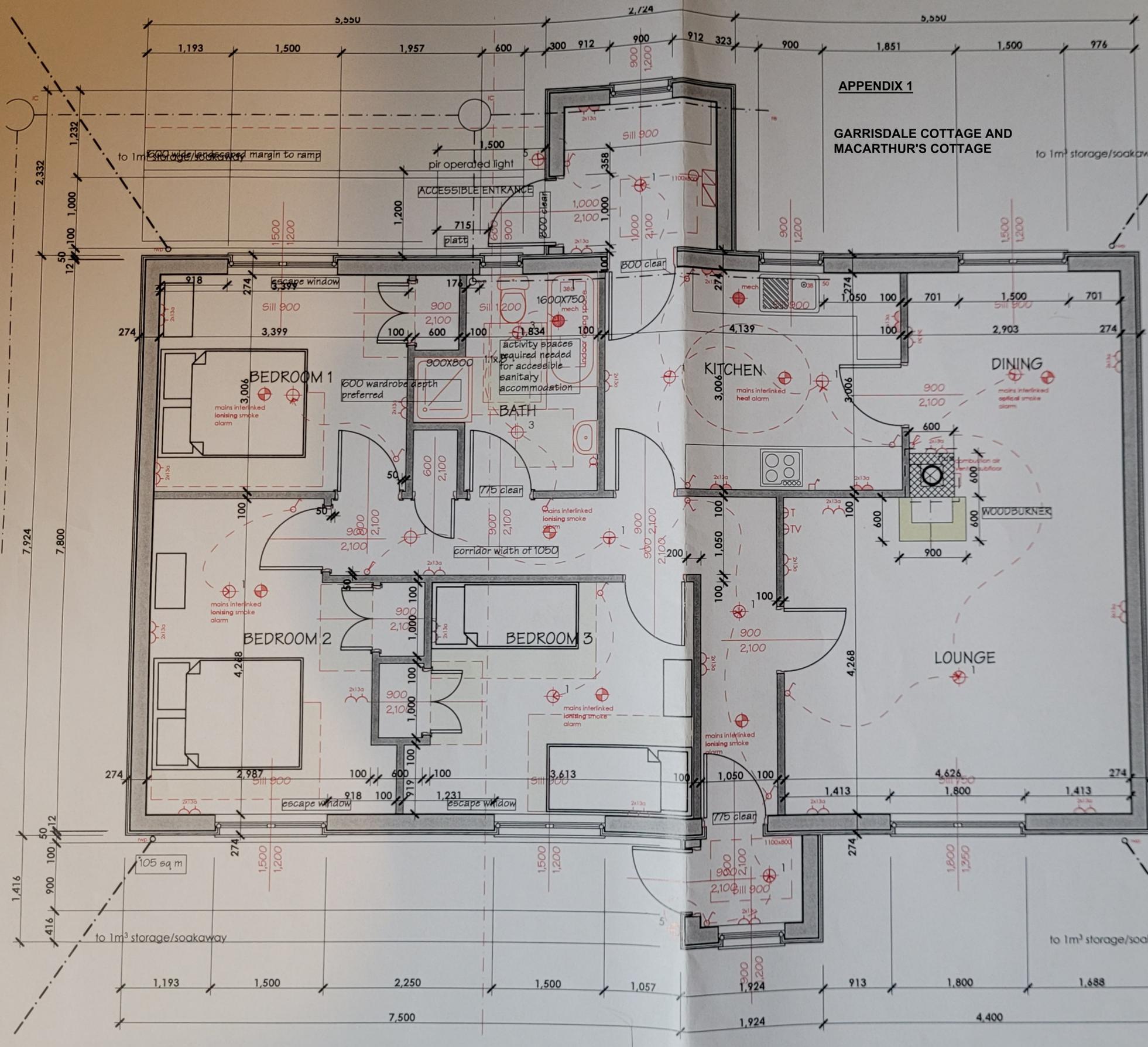
- Civic Government (Scotland) Act 1982
- The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

Appendix:

Appendix 1: Floor plans for the Premises.

**NOTES**  
 The contractor will be held to have checked all dimensions before commencing with any work and in the event of any discrepancies to refer them directly to the Architect prior to commencement of works.  
 Written dimensions are to be taken at all times. Drawings should not be scaled.  
 In case of doubt refer to the text.  
 The contractor will ensure that all materials conform to the British Standards relating to these and other materials used by the British Board of Agrement and that they are fixed, recessed or installed strictly in accordance with the BSI Code of practice relative to them or the latest published printed instructions.  
 British Standards for Code of Practice will include amendments made on or before date of tender.  
 The drawing is the copyright of the Architect and all rights are reserved. Copying of this drawing or parts thereof by any means is an infringement of the copyright and may be subject to prosecution unless consent of the Architect is obtained.

**APPENDIX 1**  
**GARRISDALE COTTAGE AND**  
**MACARTHUR'S COTTAGE**



may 12	warrant application revisions	A	DMM
date	revisions	rev	by

**David Mee-Architect**  
 CHARTERED ARCHITECT

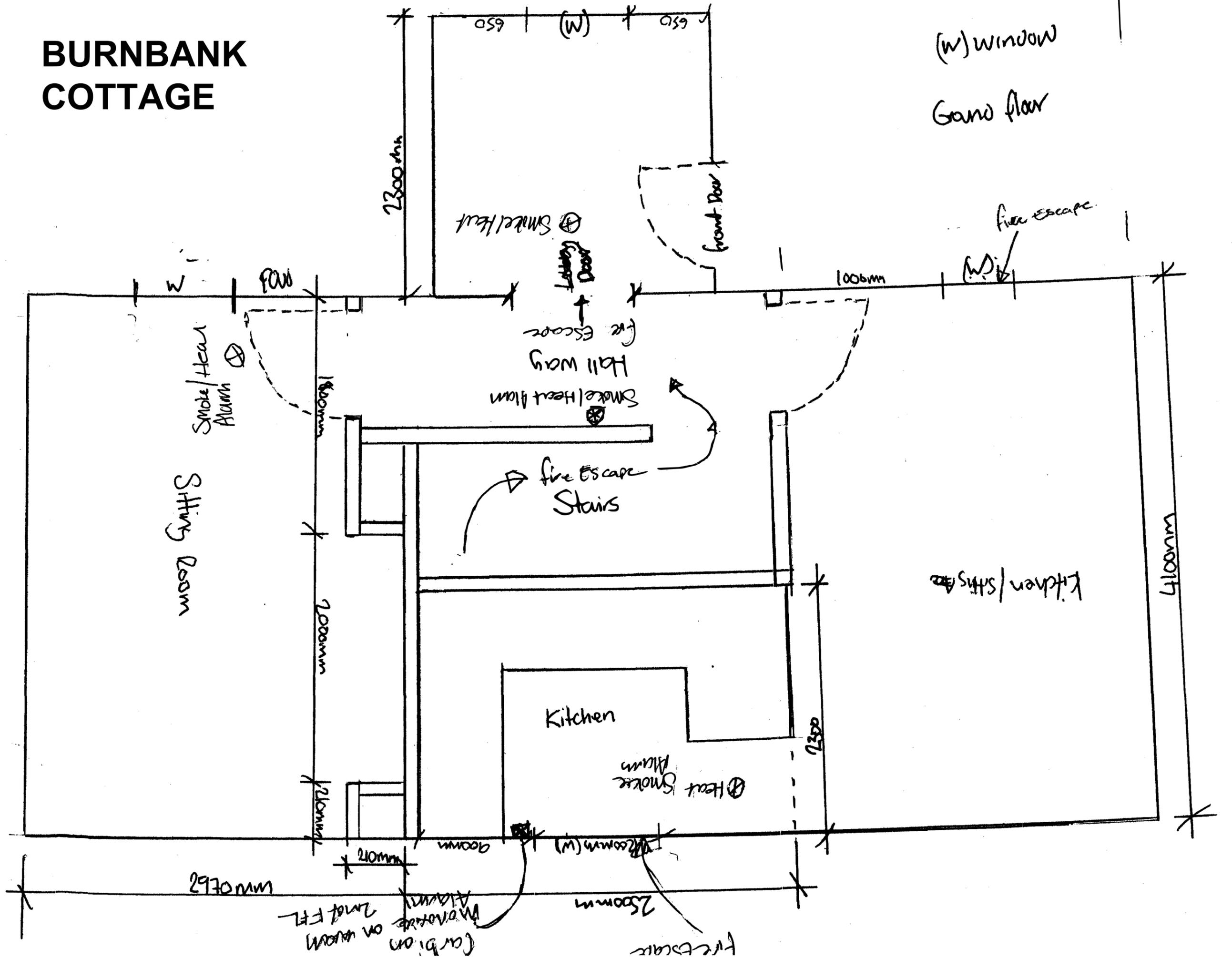
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project: **NEW COTTAGES**  
**ISLE OF CANNA**  
 client: **MURDO JACK**  
 detail: **AMENDED LAYOUT: ISSUE 2**

scale at: A3	date	drawn
1:50		DMM
Client ref:	Job no.	Orig no.
JAC02	10/00	02
		Rev.
		A

# BURNBANK COTTAGE

(w) window  
Grand floor



first floor

