

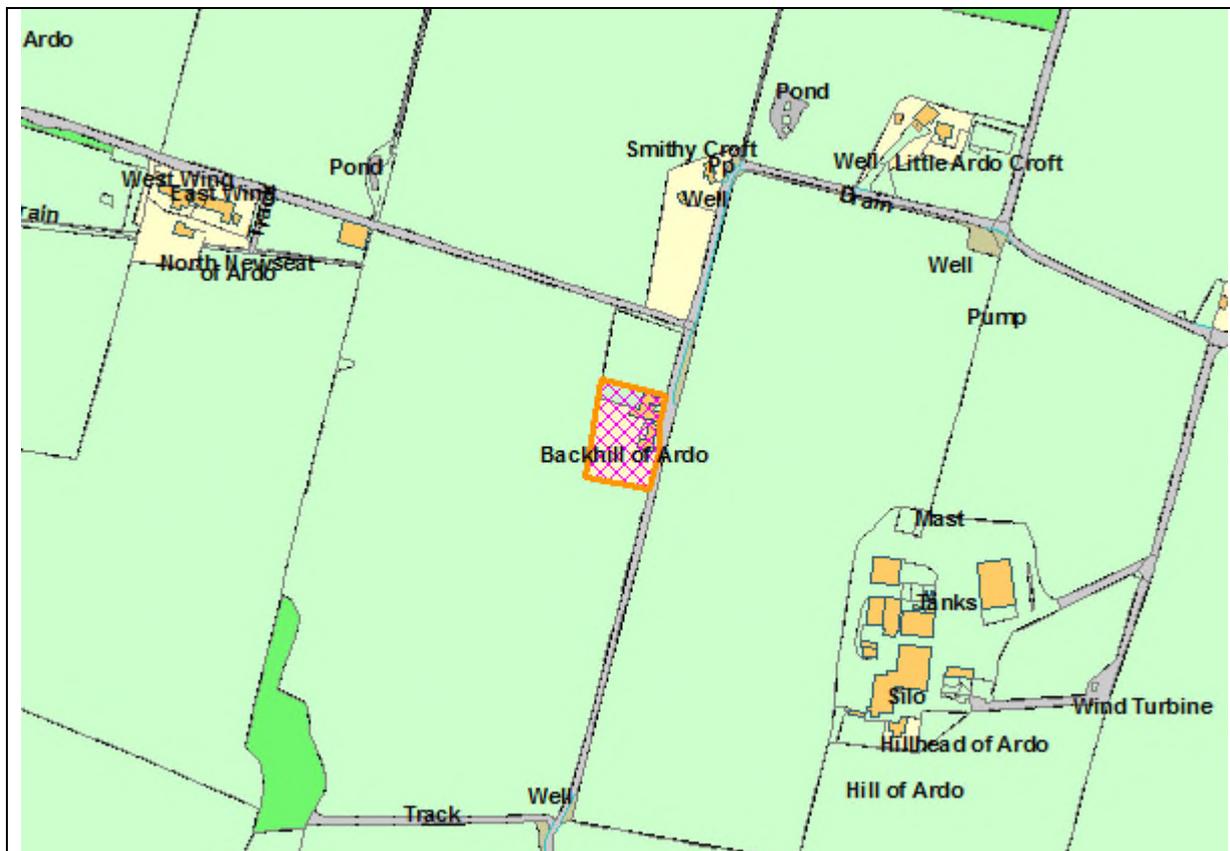
Formartine Area Committee Report – 23 August 2022

Reference No: APP/2022/0711

Full Planning Permission for Alterations to First Floor of Domestic Garage to form Ancillary Residential Accommodation (Granny Flat) at Backhill of Ardo, Methlick, Ellon, Aberdeenshire, AB41 7HS

Applicant: Mr & Mrs S Bruce
Agent: Colin Thompson Chartered Architect

Grid Ref:	E:385622 N:839382
Ward No. and Name:	W07 - Turriff and District
Application Type:	Full Planning Permission
Representations:	0
Consultations:	1
Relevant Proposals Map:	Aberdeenshire Local Development Plan
Designations:	AHMA
Complies with Development Plans:	No
Main Recommendation:	Refuse



NOT TO SCALE

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1. Reason for Report

1.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.1 of Part 2A List of Committee Powers and Section C.3.1i of Part 2C Planning Delegations of the Scheme of Governance as the application is recommended for refusal but 50% or a majority of responding Local Ward Members in the Ward in which the development is proposed have requested that the application be referred to the Area Committee.

- Councillor Stirling requested that the application be referred to committee “for further consideration of the application relating to Policy R2.”
- Councillor Lang requested that the application be referred to committee as “it seems unclear if this is an ancillary building or a separate dwelling house, more information is required.”

1.2 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

2. Background and Proposal

2.1 The applicant seeks Full Planning Permission for alterations to the first floor of a domestic garage to form ancillary residential accommodation, (a granny flat), at Backhill of Ardo, Methlick.

2.2 The site is located in a remote rural area approximately 1.5km north of Methlick (**see Appendix 1**). It includes a residential property, as well as a large and recently constructed detached garage with first floor to the north of the dwellinghouse (**see Appendix 2**). The garage features an entrance vestibule as well as extensive glazing on the first floor, and it is finished with a slate roof, cream drydash walls and timber cladding elements on the entrance porch, vestibule and around the feature glazing on the first floor (**see Appendix 3**). There are open fields to the north, west and east of the site, and to the south on the opposite side of the residential property Backhill of Ardo. Access to the site is taken from an existing private road located immediately to the east.

2.3 The proposal would involve the formation of two bedrooms including an en-suite bathroom on the first floor of the garage building. Also formed within this space would be a shower room and an open plan kitchen and lounge area (**see Appendix 4**). No new openings would be created in the building as the windows are already extant.

2.4 Relevant planning history:

- APP/2021/1822 – Part Change of Use of First Floor and Vestibule of Garage (Class 9) to Office (Class 4) – Full Planning Permission (Application Withdrawn December 2021)

- ENQ/2021/1973 - Use of Domestic Garage as Bed and Breakfast Accommodation
**The response to this enquiry outlined that “the proposed alterations appear to create a self-contained first-floor flat flat... which is unlikely to be supported by the Planning Service.”*
- APP/2019/1394 – Erection of Garage – Full Planning Permission (Granted August 2019)
**This application was for the garage building which is the subject of the current application.*
- APP/2018/1342 – Demolition of Existing Buildings, Erection of 2 Dwellinghouses and Detached Double Garage – Full Planning Permission (Refused August 2018)
- APP/2017/3200 – Erection of 2 Dwellinghouses (Holiday Homes) and Double Garage – Full Planning Permission - (Application Returned February 2018)
- APP/2012/0530 – Erection of 1 No.15 kW Wind Turbine (height to top 21m) – Full Planning Permission – (Refused June 2013)
- APP/2008/0630 – Alterations and Extension to Dwellinghouse – Full Planning Permission (Approved June 2008)

2.5 Supporting Information

- Drainage Statement – CTA (Scotland) Ltd Architect (Job No: 0222/12, dated March 2022)
- Supporting Statement – CTA (Scotland) Ltd Architect (Job No: 0222/12, dated February 2022)

3. Representations

3.1 No valid letters of representation have been received.

4. Consultations

4.1 **Environment and Infrastructure Services (Roads Development)** has commented that there is “ample parking” for the site. It otherwise has no comments to make on the proposal.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and

- to maintain and enhance the quality of the natural heritage and built environment.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone.

5.2 Aberdeen City and Shire Strategic Development Plan 2020

The Strategic Development Plan (SDP) was approved on 12 August 2020.

The purpose of this Plan is to set a clear direction for the future development of the City Region. It sets the strategic framework for investment in jobs, homes and infrastructure over the next 20 years. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of non-renewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

The Aberdeenshire Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Aberdeen City & Shire SDP 2020 as approved forms part of the Development Plan.

5.3 Aberdeenshire Local Development Plan 2017

Policy R2 Housing and employment development elsewhere in the countryside

Policy P1 Layout, siting and design

Policy E2 Landscape

Policy RD1 Providing suitable services

5.4 Proposed Aberdeenshire Local Development Plan 2020

Aberdeenshire Council on 5 March 2020 resolved to agree the Proposed Aberdeenshire Local Development Plan (LDP) 2020 as the 'settled view of the Council' on what the final adopted content of the LDP 2022 should be. The Proposed LDP 2020 is a material consideration in the determination of planning applications. The Planning Authority must therefore assess what weight it should have in the context of this particular application. The Reporter's report of Examination of the Proposed LDP 2020 has now been

published (24 June 2022). Notwithstanding, there is currently no authority to use the Proposed Local Development plan as a substitute for the Local Development Plan 2017. The weight that can be given to the phrase “settled view of the Council” can only be interpreted in the context of the publication of the Proposed Local Development Plan 2020 (March 2020). Even with the certainty associated with the Reporters’ Report it still remains only a material consideration in determining planning applications. However, consideration will be given on a case by case basis where the weight of the Reporter’s Report should be given overwhelming significant weight when it is most advantageous to the applicant’s proposals. SPP Paragraph 34 is of associated relevance.

The Scheme of Governance reserves determination of planning policy to Full Council for resolution. As such, not until the Proposed Local Development Plan 2020 has been formally adopted by Full Council (as LDP 2022) can this be considered as the Council’s ‘settled view’.

It should be borne in mind that the LDP has been written to be implemented as a whole and not the selective use of agreeable parts.

On the 18 April 2022 with reference to the legislation the LDP 2017 became technically ‘out of date’. Notwithstanding this, the Aberdeenshire LDP 2017 remains the primary document against which planning applications should be determined until such time as a new LDP for the area is adopted. Currently Scottish Planning Policy (SPP) deals with this circumstance at Paragraphs 32 to 34. The policies of the LDP 2017 are reflective of the policy position within SPP. Both SPP and the National Planning Framework 3 are confirmed as significant influences on the content of the Plan, as confirmed within Section 2 – ‘Influences of the Plan’. In summary, when a development plan is more than five years old the presumption in favour of sustainable development is a significant material consideration, this must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits. All of these matters however are already embedded within the policies of the Local Development Plan 2017 and deemed robust in their consideration.

5.5 Other Material Considerations

None.

6. Discussion

- 6.1 Paragraph 33 of Scottish Planning Policy (SPP) states that where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development will be a significant material consideration. This must be balanced against any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits.

- 6.2 The main issues for consideration with regard to this application are whether the principle of development can be established for the use of the first floor of the garage as a residential annexe, and whether it would respect the residential and visual amenity of the surrounding area.

Principle of Development

- 6.3 The proposal would not involve the refurbishment or replacement of a house or disused building, as it would relate to the altered use of a loft space of a recently constructed garage. It would not involve the remediation of brownfield land and it is not within range of a settlement that would be eligible for 'small-scale growth' of an Appendix 4 settlement (see LDP 2017, Appendix 4 Identified Settlements under Policy R2). It would also not involve the addition of a property to an existing cluster or involve the provision of accommodation as part of the retirement succession of a viable farm holding.
- 6.4 Policy R2 does allow for development that would otherwise be "appropriate in the Greenbelt" as defined in Policy R1 Special rural areas, but none of these criteria can be met either. There is a provision for "the extension of an existing building or use that is ancillary to the main use". Notwithstanding this, the proposed accommodation would be accessed in a separate building to the main dwellinghouse and which could be used independently of the ground floor garage (which has alternative access doors).
- 6.5 In addition to this, the floor plan shows two bedrooms, a bathroom and an ensuite as well as a full open plan kitchen and lounge. The intended annexe could function completely independently from the main dwellinghouse as a 2-bedroom flat, and as such cannot be treated as 'ancillary' to the main dwellinghouse. While the proposed internal alterations do not constitute development and there are no external alterations, the change of use of the first floor of the garage to a flat would constitute development as flats do not fall under Use Class 9 of The Town and Country Planning (Use Class) (Scotland) Order 1997 but are classed as Sui generis. It must therefore be assessed as if it were an independent dwelling rather than a residential annexe, and it would be contrary to Policy R2 as a result. The supporting statement also reinforces this in stating that "it would be a self-contained two bedroom flat essentially, over the existing garage".
- 6.6 The site layout is such that the parking and turning area is not shared with the house (in fact is furthest from the house), being totally independent (the existing house's parking is immediately to the front of the property). As the parking and access to the flat are on the other side from the house, it would be possible to occupy the flat with little or no interaction with the occupiers of the existing house. The property would, effectively, be a separate residential unit. Consequently, the principle of development cannot be established under Policy R2.

Other Material Considerations

- 6.7 The proposed internal layout of the development would be functional as a dwelling and the existing window openings would provide more than enough light into the living space of all rooms. The absence of any external alterations would mean that no new overshadowing impacts would be created. The south elevation of the garage (facing Backhill of Ardo) has most of the glazing located towards the eastern edge where it would face the side gable of Backhill of Ardo rather than into main living spaces or over the most usable areas of garden ground. This would mean potential overlooking would be of minor concern, and there would be no new window openings proposed that would further exacerbate this. The proposal is therefore deemed not to conflict with Policy P1.
- 6.8 The impact of the development on the landscape character would be unchanged as there would be no alterations to the existing building to facilitate the proposed use of the first floor of the building as an annexe. Consequently, the proposal would not conflict with Policy E2.
- 6.9 The development would be served by an existing connection to a water supply, and existing surface and foul water drainage systems that serve the dwellinghouse at Backhill of Ardo. No alteration would be required to the surface water drainage provision due to the proposal not resulting in any enlargement of the developed footprint. The provided drainage statement identifies that the existing septic tank and soakaway is of a sufficient size to accommodate the intensification of use that would arise from the habitation of the annexe in addition to the main dwellinghouse. Roads Development outline that there is ample parking and otherwise had no comments. For this reason, the proposal is deemed to comply with Policy RD1.

Conclusion

- 6.10 The policies contained in the Local Development Plan 2017 remain compliant with the principles of sustainable development as guided by the SPP and therefore provide an appropriate basis for the determination of this application.
- 6.11 The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles and does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.
- 6.12 The proposed development would result in the creation of an independent 2 bedroom flat as opposed to being ancillary to the main use of the dwellinghouse at Backhill of Ardo. The proposal would not comply with any of the eligibility criteria of Policy R2 and therefore the principle of development cannot be established. Approving the development would also undermine the objectives of sustainable development within the area, which would otherwise

direct residential development towards settlements, brownfield sites or existing allocated sites for housing in Aberdeenshire, in the first instance.

7. Area Implications

- 7.1 In the specific circumstances of this application there is no direct connection with the currently specified objectives and identified actions of the Local Community Plan.

8. Implications and Risk

- 8.1 An integrated impact assessment is not required because the granting or refusing of the application will not have a differential impact on the protected characteristics of the applicant or any third parties.
- 8.2 There are no staffing and financial implications.
- 8.3 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Committee is considering the application as the planning authority in a quasi-judicial role and must determine the application on its own merits in accordance with the Development Plan unless material considerations justify a departure.
- 8.4 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

9. Departures, Notifications and Referrals

9.1 Strategic Development Plan Departures

None

9.2 Local Development Plan Departures

Policy R2 Housing and employment development elsewhere in the countryside

- 9.3 The application is a Departure from the valid Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.
- 9.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

9.5 The application would not have to be referred to Infrastructure Services Committee in the event of the Area Committee wishing to grant permission for the application.

10. **Recommendation**

10.1 **REFUSE for the following reason:-**

01. The Planning Authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017.

The proposal would involve the formation of a self-contained 2 bedroom flat that could be used entirely independently of the existing dwellinghouse at Backhill of Ardo. As such, the proposal is deemed not to be ancillary to the main use of the existing dwellinghouse. The principle of development can not otherwise be established against Policy R2 Housing and employment development elsewhere in the countryside, as it would not meet any of the eligibility criteria. The proposal is therefore contrary to Policy R2.

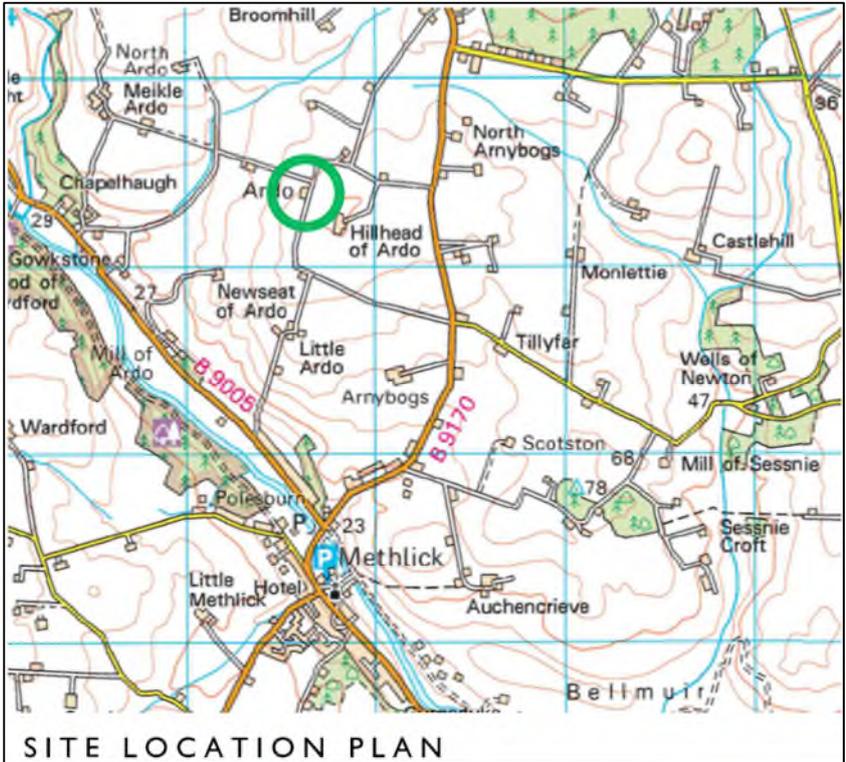
10.2 **Reason for Decision**

The proposed development was assessed against the Scottish Planning Policy principles of sustainable development however the proposal does not accord with those principles and does not accord with the policies of the Aberdeenshire Local Development Plan 2017 and therefore cannot be considered to contribute to sustainable development.

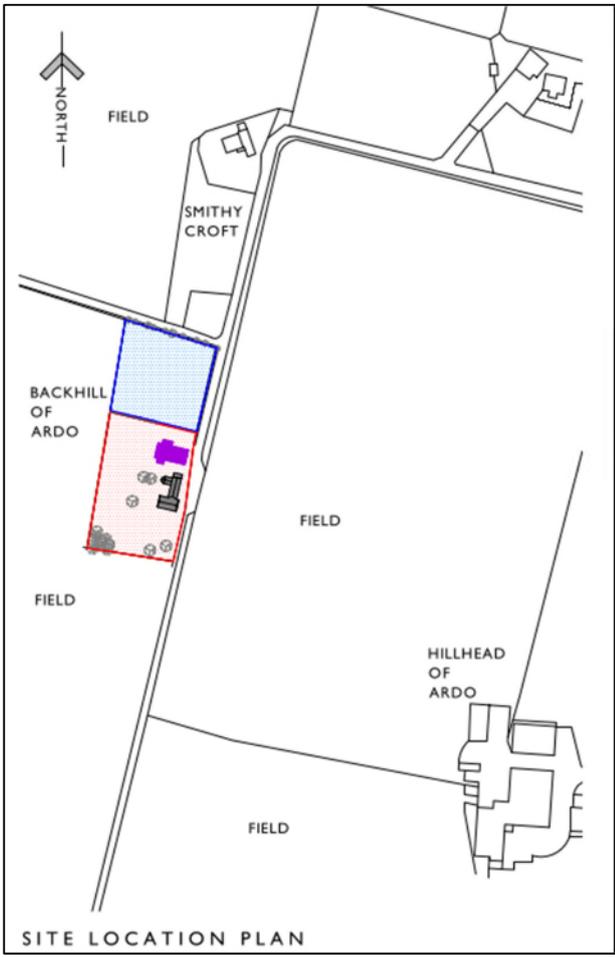
Alan Wood
Director of Environment and Infrastructure Services
Author of Report: Rory Hume
Report Date: 11 July 2022

APP/2022/0711
Site Location Plan

Appendix 1



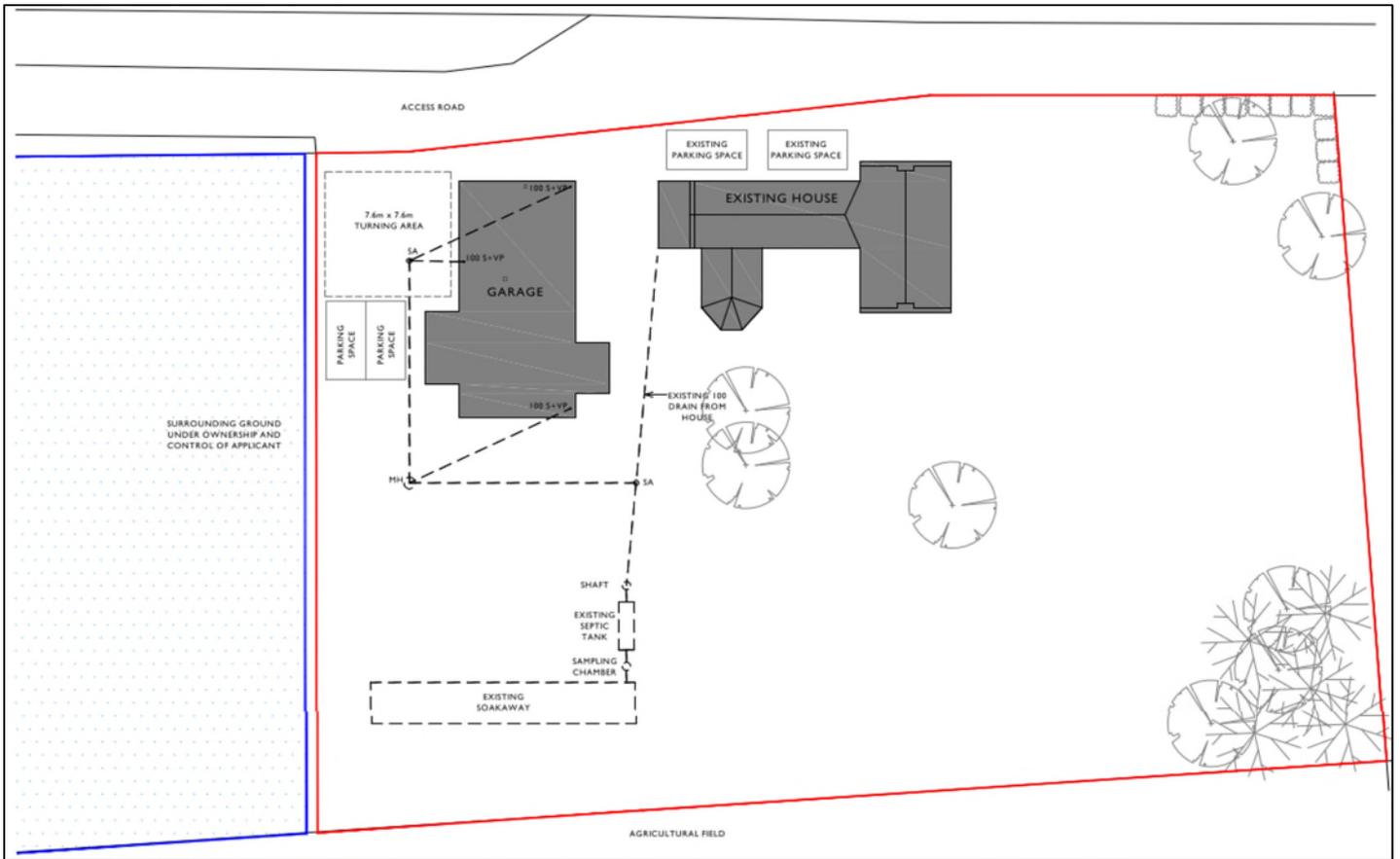
SITE LOCATION PLAN



SITE LOCATION PLAN

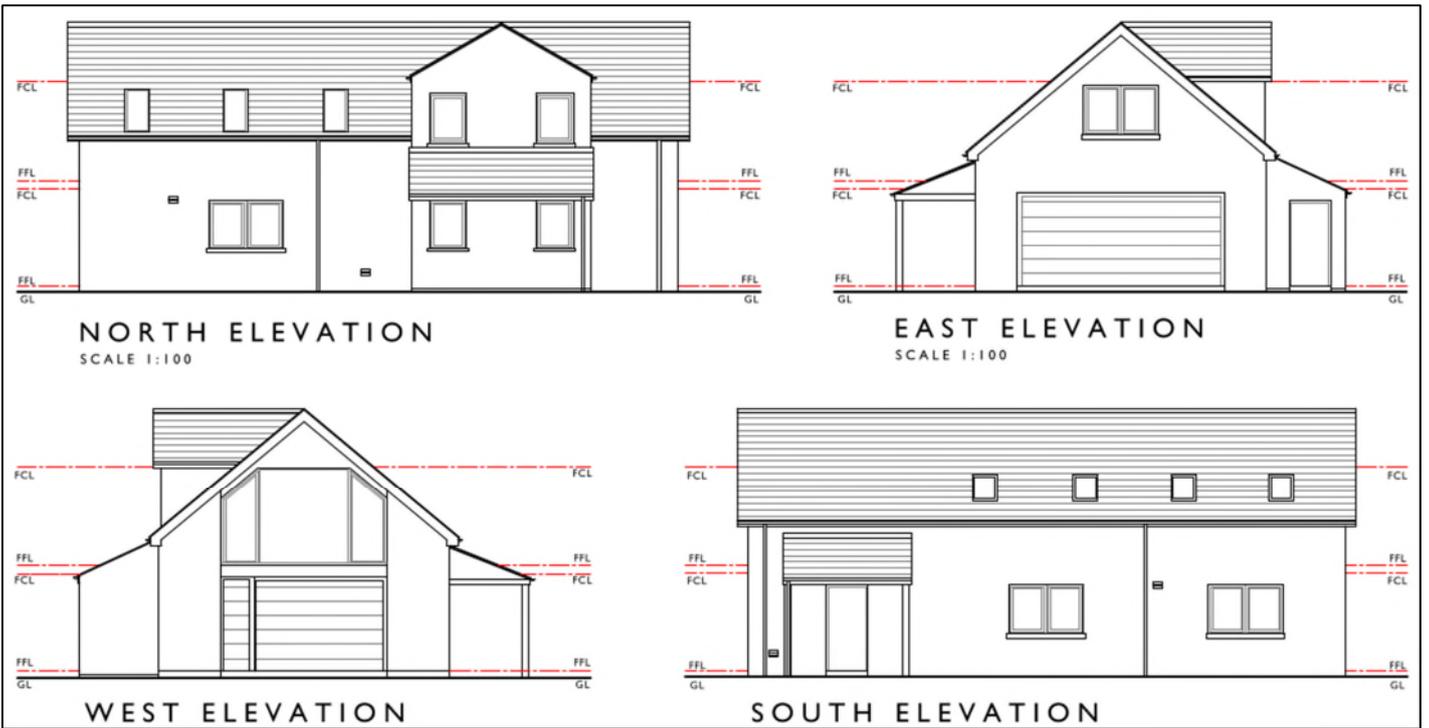
APP/2022/0711
Site Plan

Appendix 2



APP/2022/0711
Elevations

Appendix 3



APP/2022/0711
Floor Plans

Appendix 4

