

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT

Tel: 01546 602127 Fax: 01546 604435

DX 599700 LOCHGILPHEAD

22 August 2022

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **MONDAY, 29 AUGUST 2022 at 3:30 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: 37 - 39 STEVENSON STREET, OBAN, PA34 5NA (REF: 22/0004/LRB)**
 - (a) Notice of Review and Supporting Documentation (Pages 3 - 18)
 - (b) Comments from Interested Parties (Pages 19 - 34)
 - (c) Comments from Applicant (Pages 35 - 36)

Argyll and Bute Local Review Body

Councillor Kieron Green (Chair)
Councillor Fiona Howard

Councillor Daniel Hampsey

Contact: Fiona McCallum Tel: 01546 604392

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Central Validation Team at Argyll and Bute Council 1A Manse Brae Lochgilphead PA31 8RD Tel: 01546 605518 Email: planning.hq@argyll-bute.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100573834-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Bruce and Neil Chartered Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Bruce & Neil"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Chartered Architects"/>	Building Number:	<input type="text" value="26"/>
Telephone Number: *	<input type="text" value="01631563222"/>	Address 1 (Street): *	<input type="text" value="Alexandra Place"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Corran Esplanade"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Oban"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="PA34 5PU"/>
Email Address: *	<input type="text" value="oban@bruceandneil.co.uk"/>		

Is the applicant an individual or an organisation/corporate entity? *

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	O	Building Number:	37-39
Last Name: *	Hoey	Address 1 (Street): *	Stevenson Street
Company/Organisation	Hamish Hoey & Son	Address 2:	
Telephone Number: *		Town/City: *	Oban
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	PA34 5NA
Fax Number:			
Email Address: *	oban@bruceandneil.co.uk		

Site Address Details

Planning Authority:	Argyll and Bute Council
Full postal address of the site (including postcode where available):	
Address 1:	37-39 STEVENSON STREET
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	OBAN
Post Code:	PA34 5NA

Please identify/describe the location of the site or sites

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Northing	729850	Easting	186006
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Alterations to existing offices and funeral facilities at ground floor level and alterations and change of use of first and second floor workshops and stores to create 4 flats

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Refer attached Supporting Statement

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Local Review Supporting Statement Planning Application Submitted details: - Drg 0503 10 Location & Site Plan - Drg 0503 11A Existing Details - Drg 0503 12C Proposed Details - Planning Application Supporting Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

19/01858/PP

What date was the application submitted to the planning authority? *

04/09/2019

What date was the decision issued by the planning authority? *

22/03/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: - Bruce & Neil Chartered Architects

Declaration Date: 17/06/2022

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PROJECT: ALTERATIONS & CHANGE OF USE AT 37-39 STEVENSON STREET, OBAN, PA34 5NA

CLIENT: HAMISH HOEY & SON

SUBJECT: LOCAL REVIEW SUPPORTING STATEMENT

DATE: JUNE 2022

1.0 LOCAL REVIEW REQUEST

1.1 The details of this Review Request are summarised in the accompanying Notice of Review submission form ref 100573834

1.2 The applicant requests Local Review against Planning Refusal Reference 19/01858/PP issued on 22 March 2022.

2.0 APPLICATION PROPOSALS

2.1 The details of the Planning Application proposals originally submitted on 4 September 2019 are attached and form part of this Review Request.

2.2 In summary, the proposals comprise alterations to the Applicant's Grade C Listed Building on Stevenson Street, Oban. These include alterations and improvements to the existing ground floor offices and associated workshop/garage/storage areas forming part of the Applicant's existing funeral undertaking business, and further alterations and Change of Use to existing stores on the 2 upper floors to create 4No flats.

3.0 BASIS OF REVIEW REQUEST

3.1 As part of the Statutory Consultation process, an objection was received from SEPA and concerns noted by the Council's own Flood Risk Adviser. In summary, both responses were similar in noting that the application site lies within the SEPA flood risk map area (based on the adjacent tidal Black Lynn burn) and development of new housing there could present an unacceptable risk if there was a medical emergency in the building coinciding with a projected 1:200 year flood event.

3.2 Following the objectors refusal to accept a Flood Risk Assessment for a site located further upstream on the Black Lynn burn at Lochside Street prepared in 2009, the Applicant's local Environmental Consultant confirmed that a fresh Flood Risk Assessment based on current predictions would be unlikely to demonstrate any lesser risk of 1:200 year event flooding at the application site. However, the objections are based on the serious but unlikely coincidence of tidal (and therefore temporary) flooding at the application site with the need for an emergency evacuation of a resident from the proposed flats.

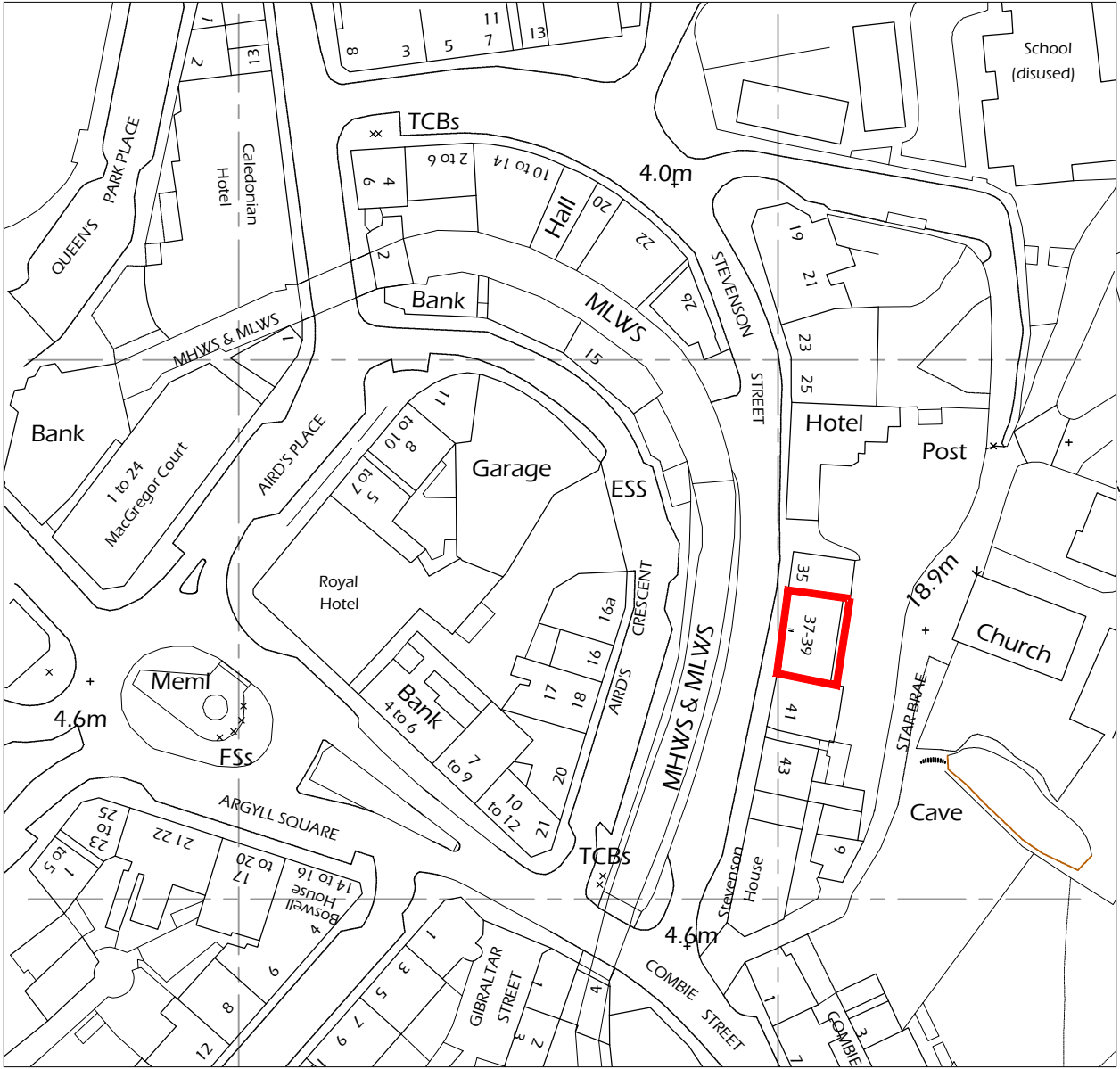
3.3 At the suggestion of the Flood Risk Officer, the Applicants commissioned a digital topographic survey of the rock face and banking to the rear of the application subjects to investigate the possibility of an alternative emergency escape route from the top floor to Star Brae. Given the relative heights and levels involved, this would require a tortuous series of stairs and ramps from the top floor to reach Star Brae to a geometry acceptable to Building Standards. In Planning terms, this was assumed unlikely to be acceptable with stairs, ramps and handrails visible from Star Brae and certain parts of Stevenson Street, Airds Crescent and Combie Street, forming a visible backdrop to the Listed Building. In the unlikely event of the need to use this emergency access/escape, the route from the top floor of the building across these stairs and ramps for evacuation to the even steeper Star Brae and a safe vehicle location adjacent to the Free Church is likely to be even more hazardous and unsuitable than evacuation through a partially flooded Stevenson Street at the front of the building.

3.4...../

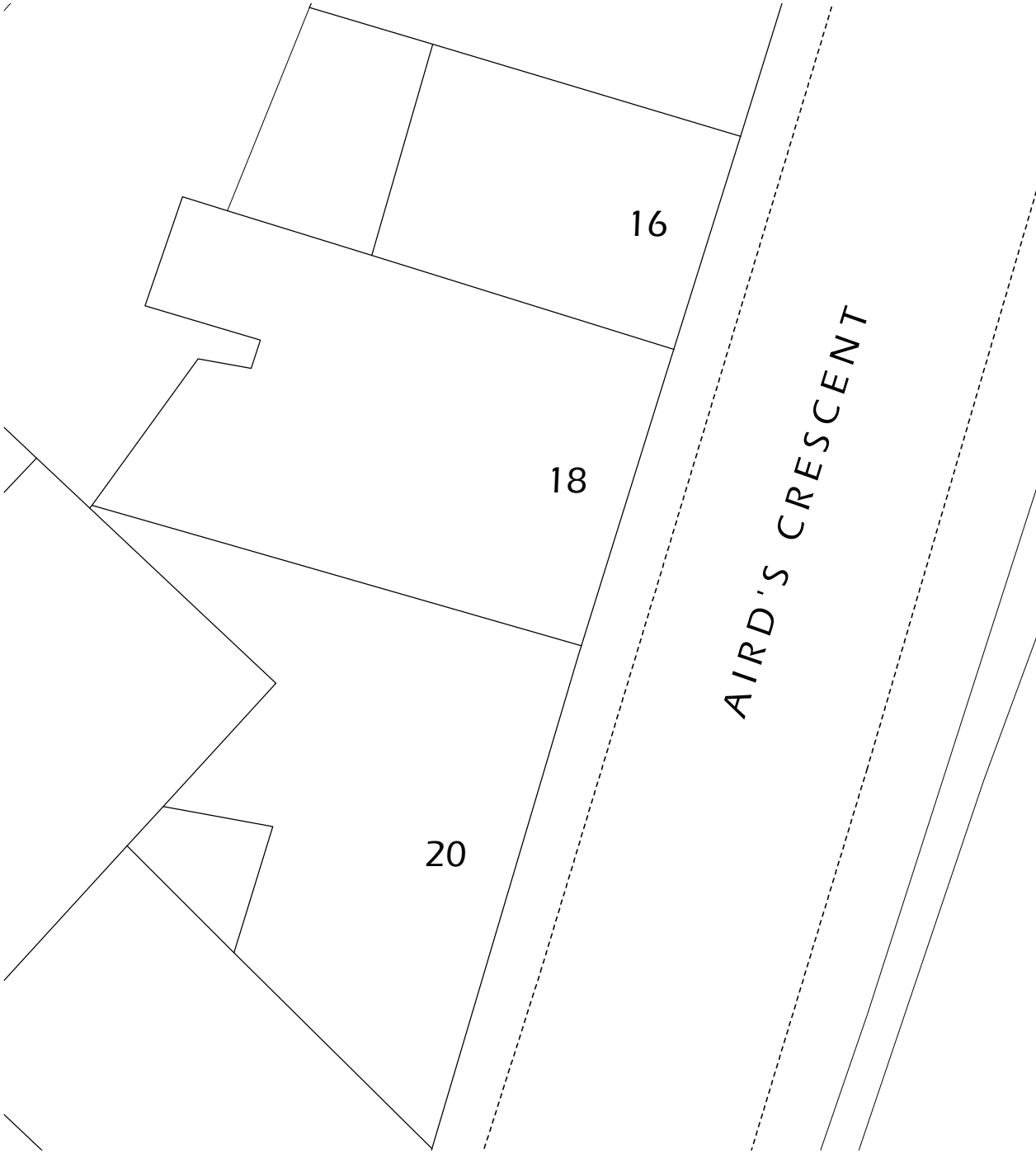
- 3.4 Notwithstanding the authority of these Statutory Consultees and their Floor Assessment Modelling, refusal of this application on the basis of short term tidal flooding on a 1:200 year event coinciding with an emergency in the building effectively sterilises this prominent Listed Building in its town centre location for use in adaptation to much needed town centre housing.
- 3.5 Given the objections raised by SEPA and concerns noted by the Councils own Flood Risk Officer there was no new information that could be provided and it seemed unlikely that either objection would be withdrawn against the background of their own flood prediction modelling. The application was subsequently Refused.

4.0 SUMMARY

- 4.1 The Applicant recognises that, by measure of recently upgraded flood modelling projections, there is a 1:200 year risk of tidal flooding at the application site.
- 4.2 The proposed alterations to the ground floor of the building simply continue an existing and established function with no increase in risk.
- 4.3 The perceived risk of a 1:200 year flood event coinciding with a medical emergency in the proposed living accommodation has been enough to refuse this Planning Application and effectively sterilise the Applicants Listed Building from beneficial future development.
- 4.4 This submission requests that the Local Authority reviews the opinion of the Planning Department that these matters are not material considerations in challenging the automatic need to refuse the Application on the grounds of the SEPA objection.

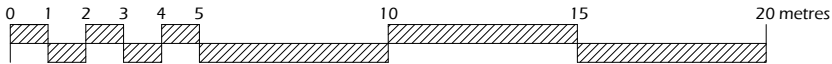


LOCATION PLAN
SCALE 1:1250

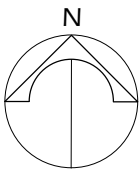


SITE PLAN
SCALE 1:200

Site Boundary



Scale 1:200



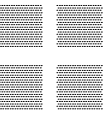
NOTES:

The contractor will be held to have checked all dimensions before commencing with any works and in the event of any discrepancies is to refer them directly to the Architect prior to commencement of works.

The contractor will ensure that all materials conform to the British Standards relating to them and/or certificates issued by the British Board of Agreement and that they are fixed, mounted or installed strictly in accordance with the B.S Code of practice relative to them or the Manufacturer's printed instructions. British Standards & Codes of Practice will include amendments made on or before date of tender.

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date	revisions	mk	by	chk'd

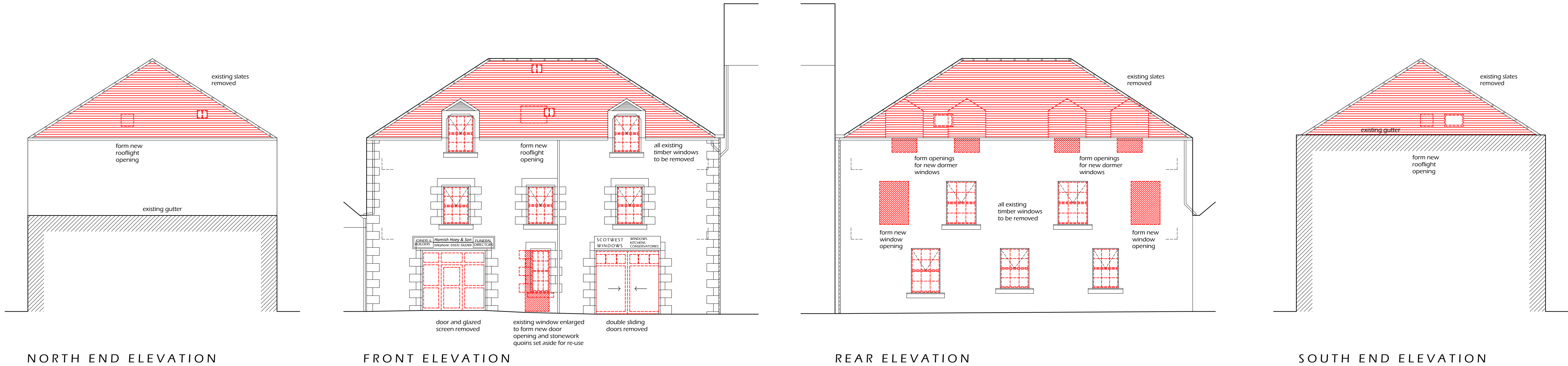


Bruce & Neil
chartered architects

26 Alexandra Place, Corran Esplanade, Oban
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project Proposed Alterations to 37-39 Stevenson Street, Oban, Argyll		
client Hamish Hoey & Sons		
drawing title Location Plan and Site Plan		
scale 1:200, 1:1250	date AUG 2019	drawn HQ
Job no. 0503	Drg no. 10	Checked

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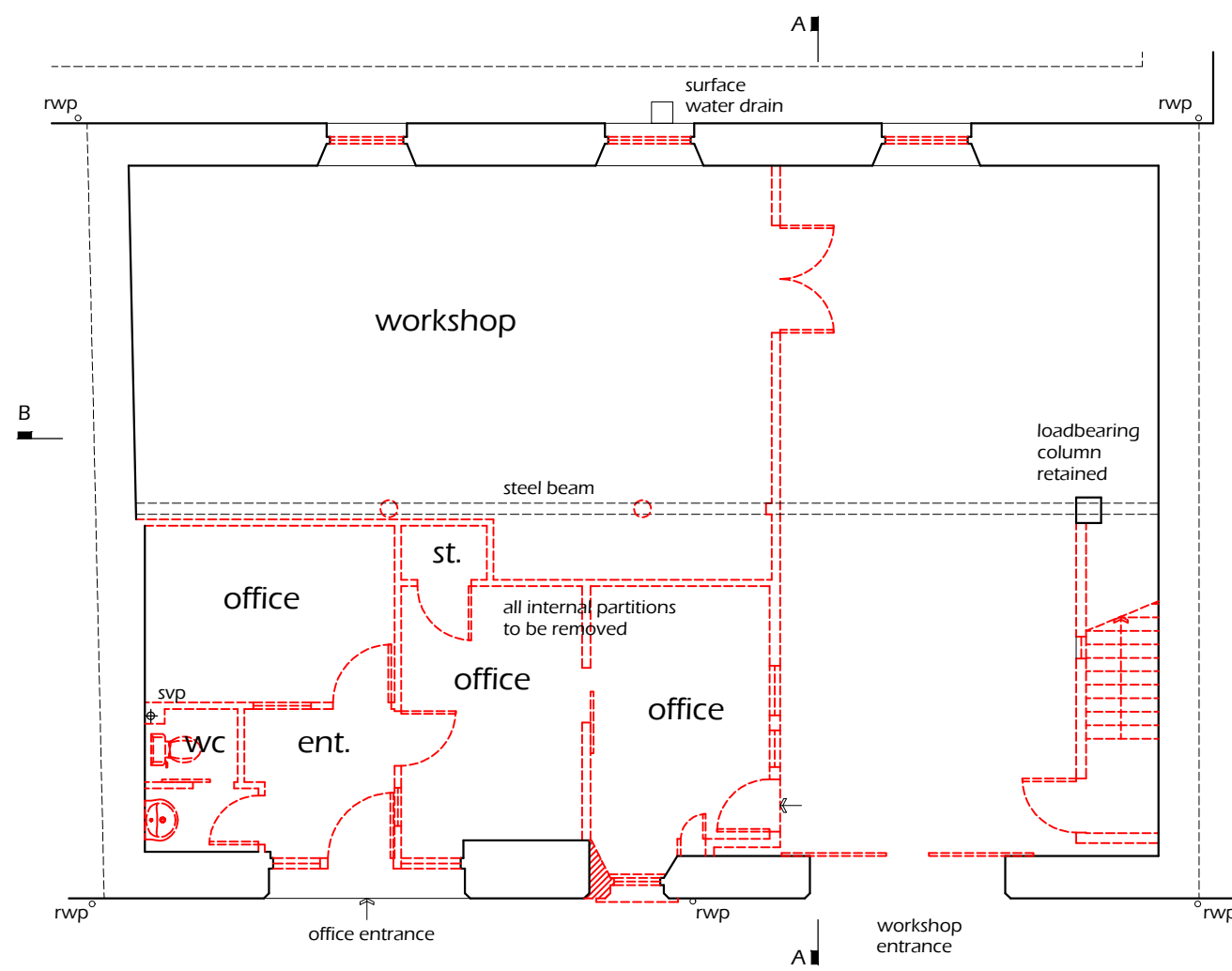


NORTH END ELEVATION

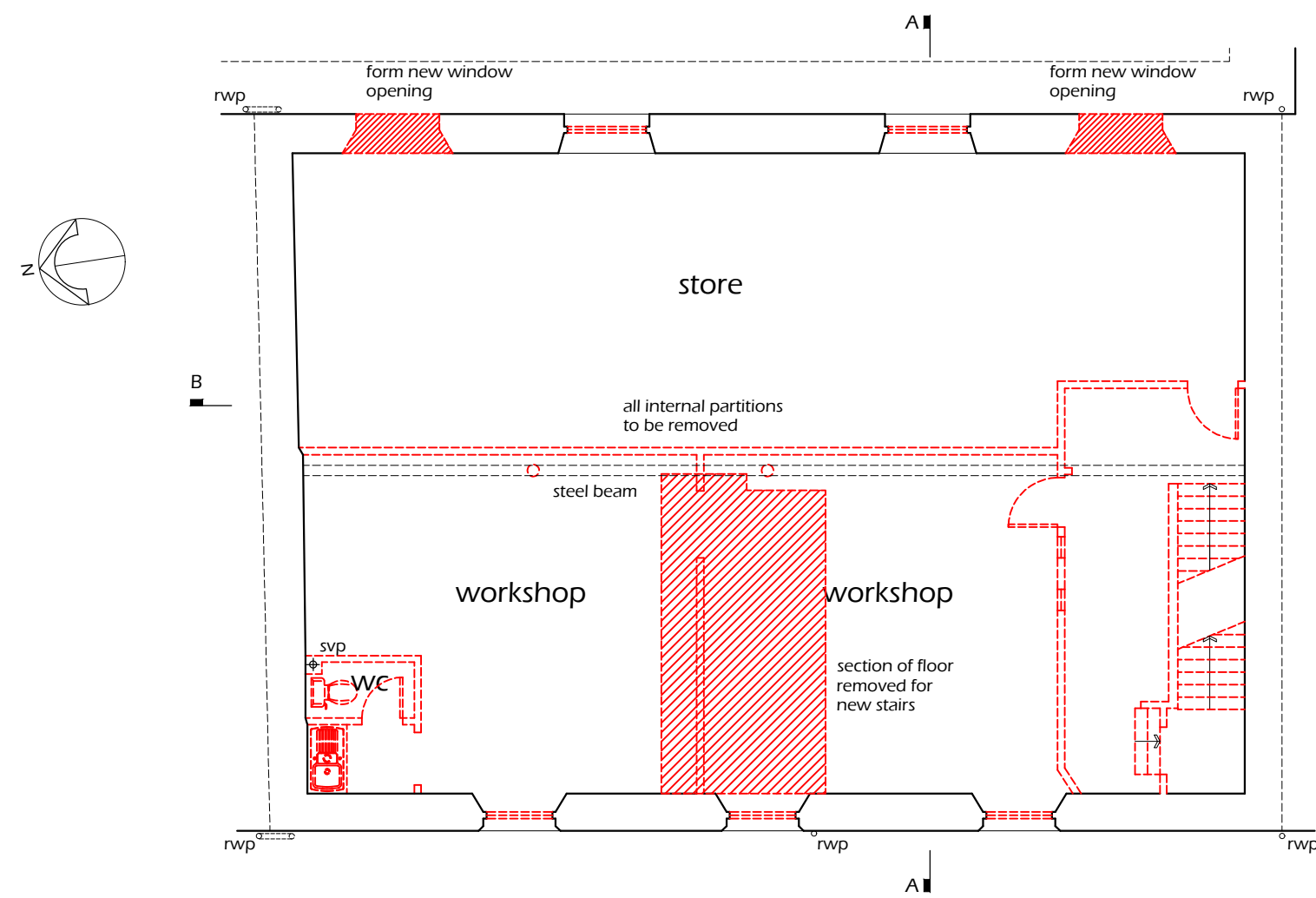
FRONT ELEVATION

REAR ELEVATION

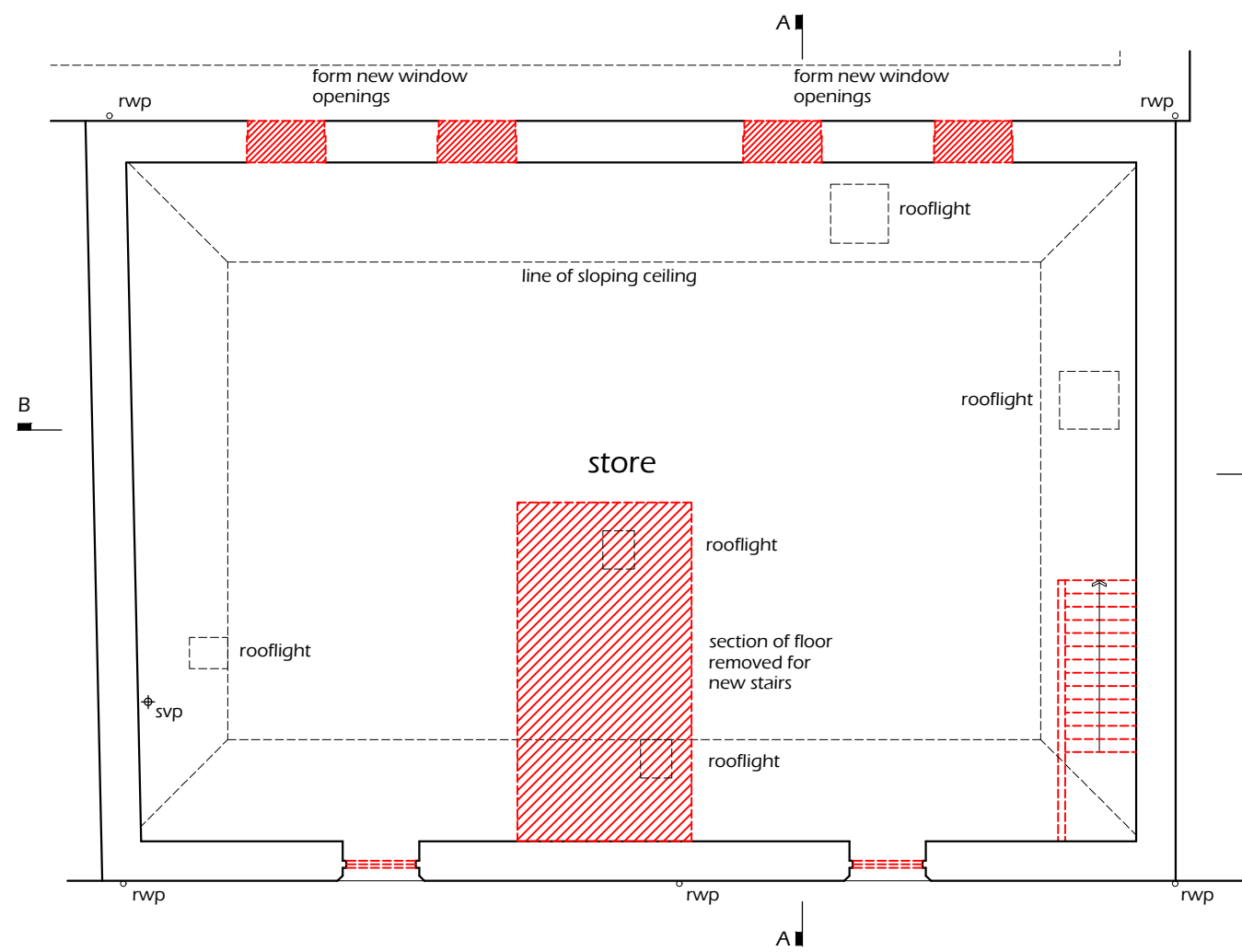
SOUTH END ELEVATION



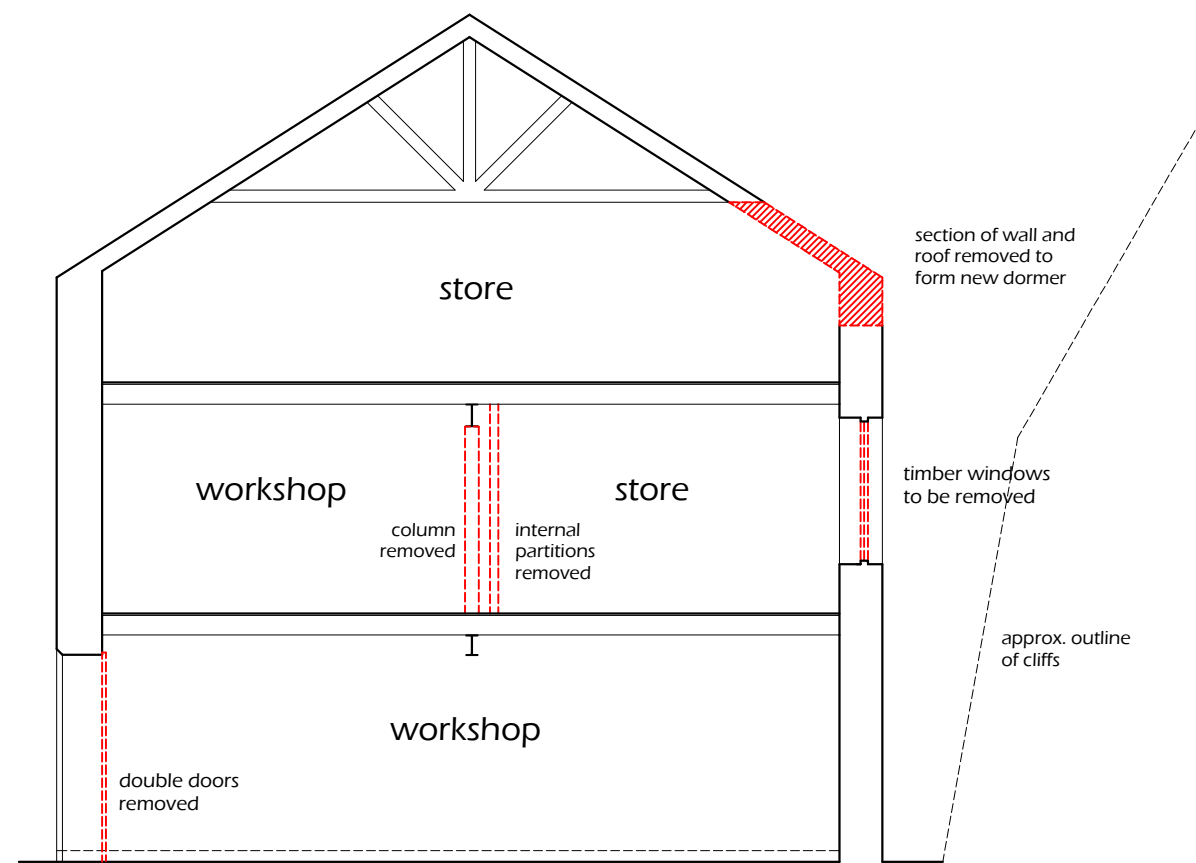
GROUND FLOOR PLAN



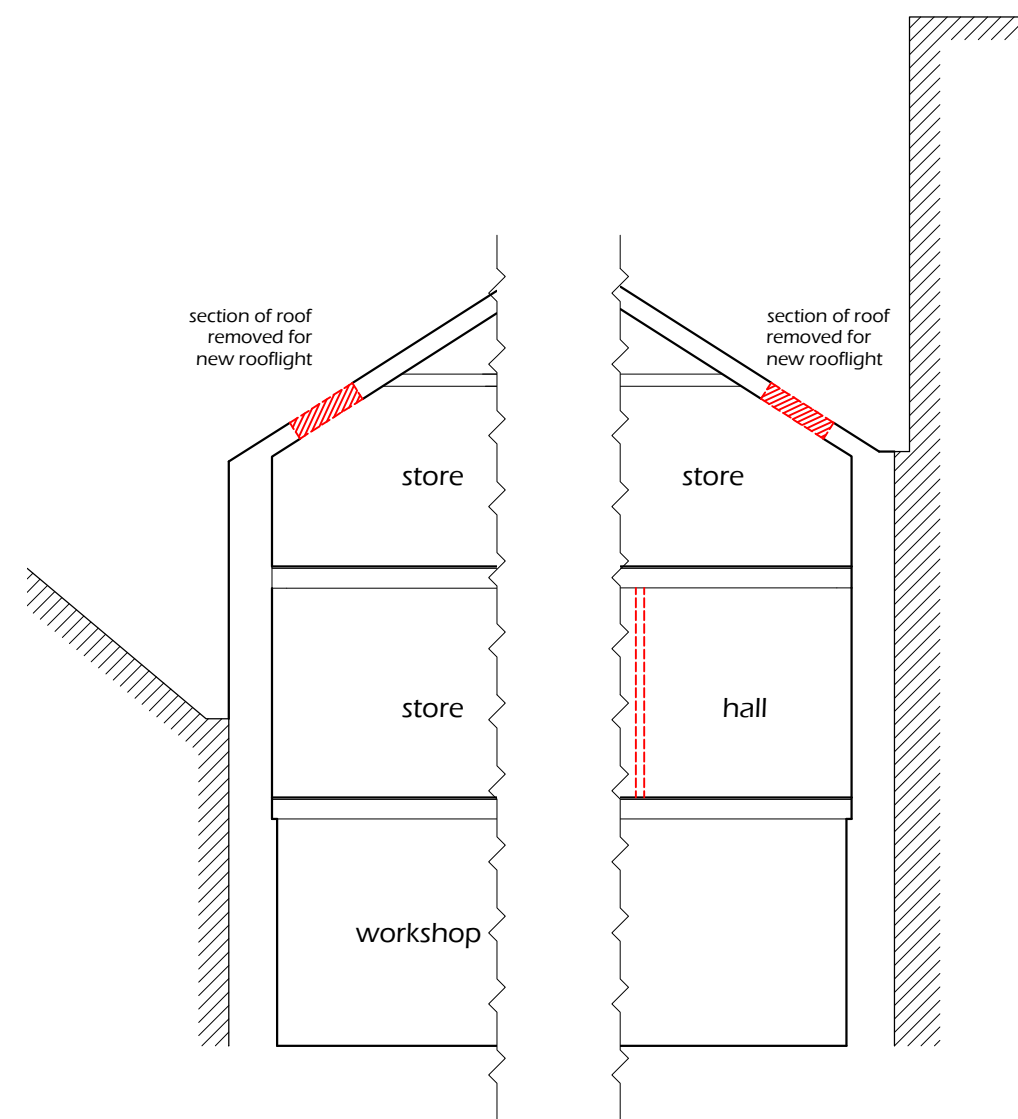
FIRST FLOOR PLAN



SECOND FLOOR PLAN



SECTION A-A



SECTION B-B

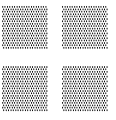
NOTES

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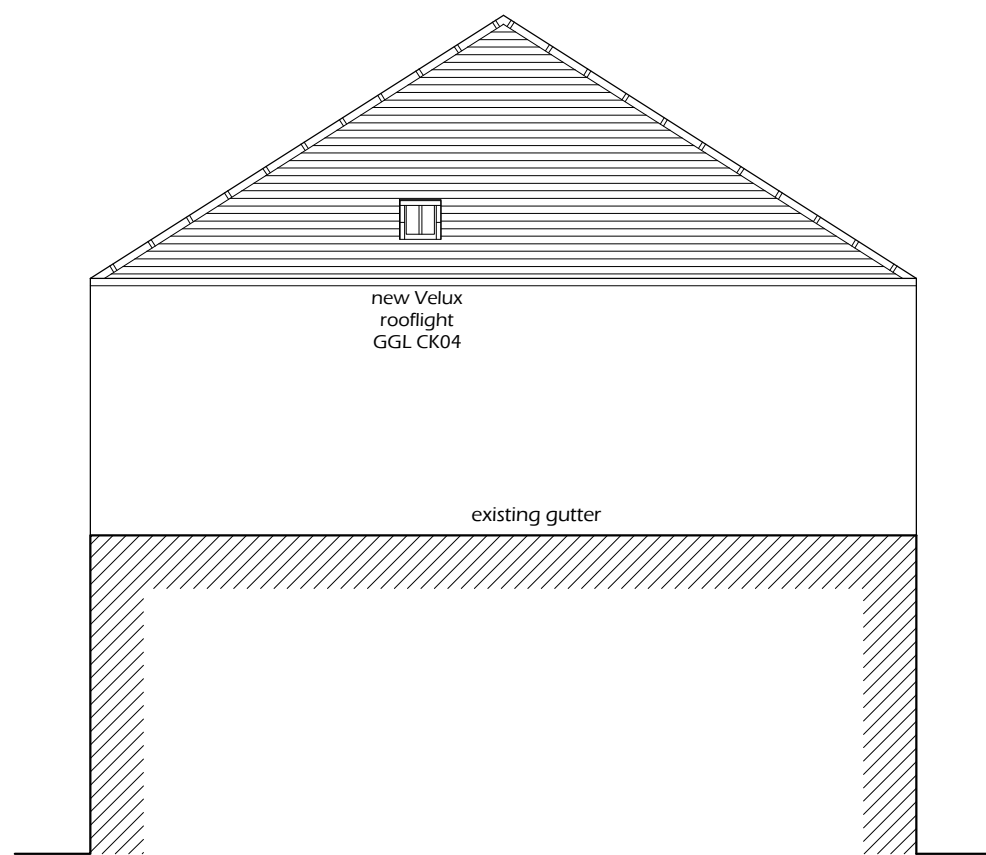
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date	revisions	mk	by	chk' d
18.9.19	Demolitions for rooflights shown	A	HQ	

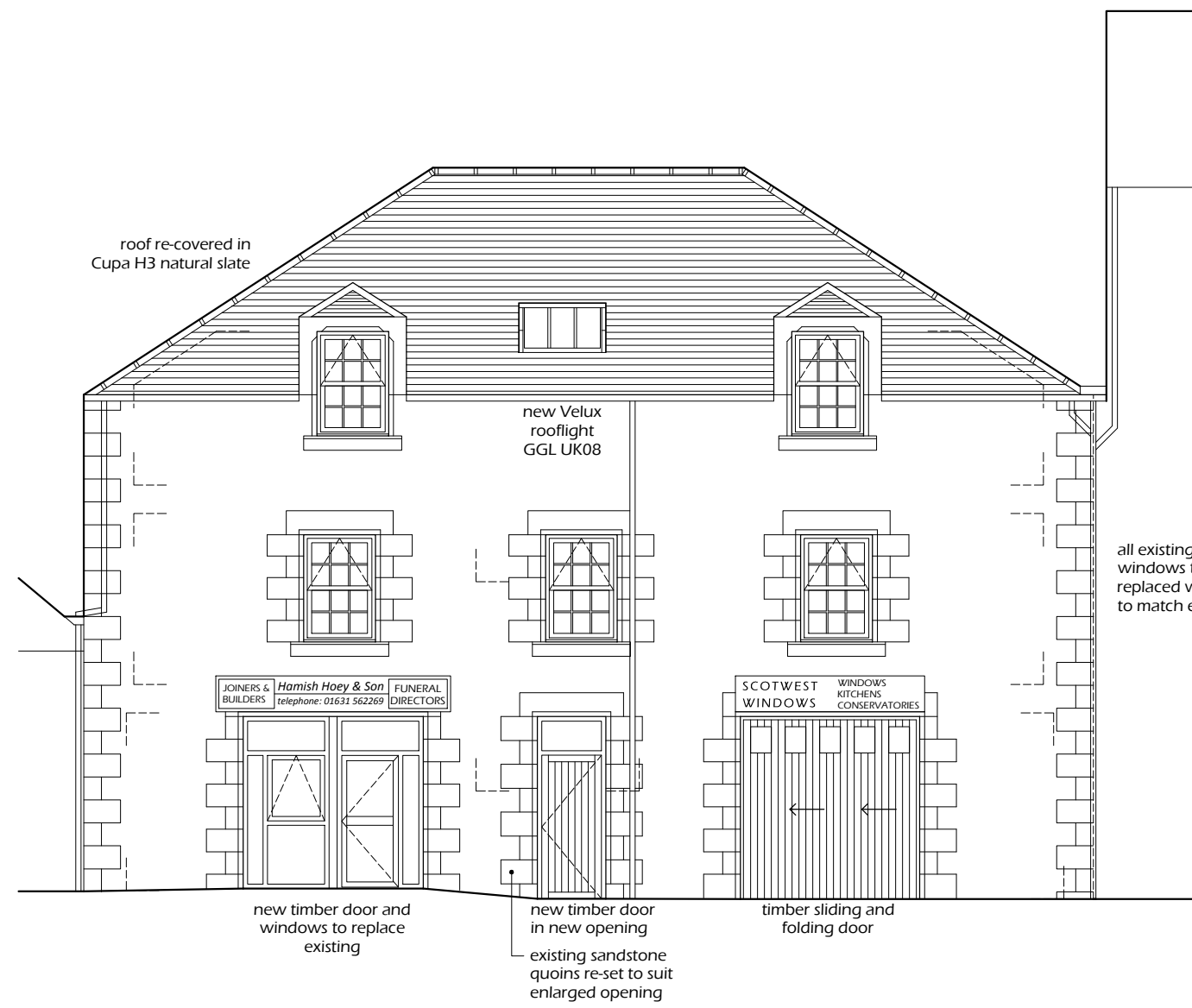

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client Hamish Hoey & Sons		
drawing title Plans, Elevations and Section As Existing		
scale 1:100	date AUG 2019	drawn HQ
Job no. 0503	Drg no. 11 A	Checked

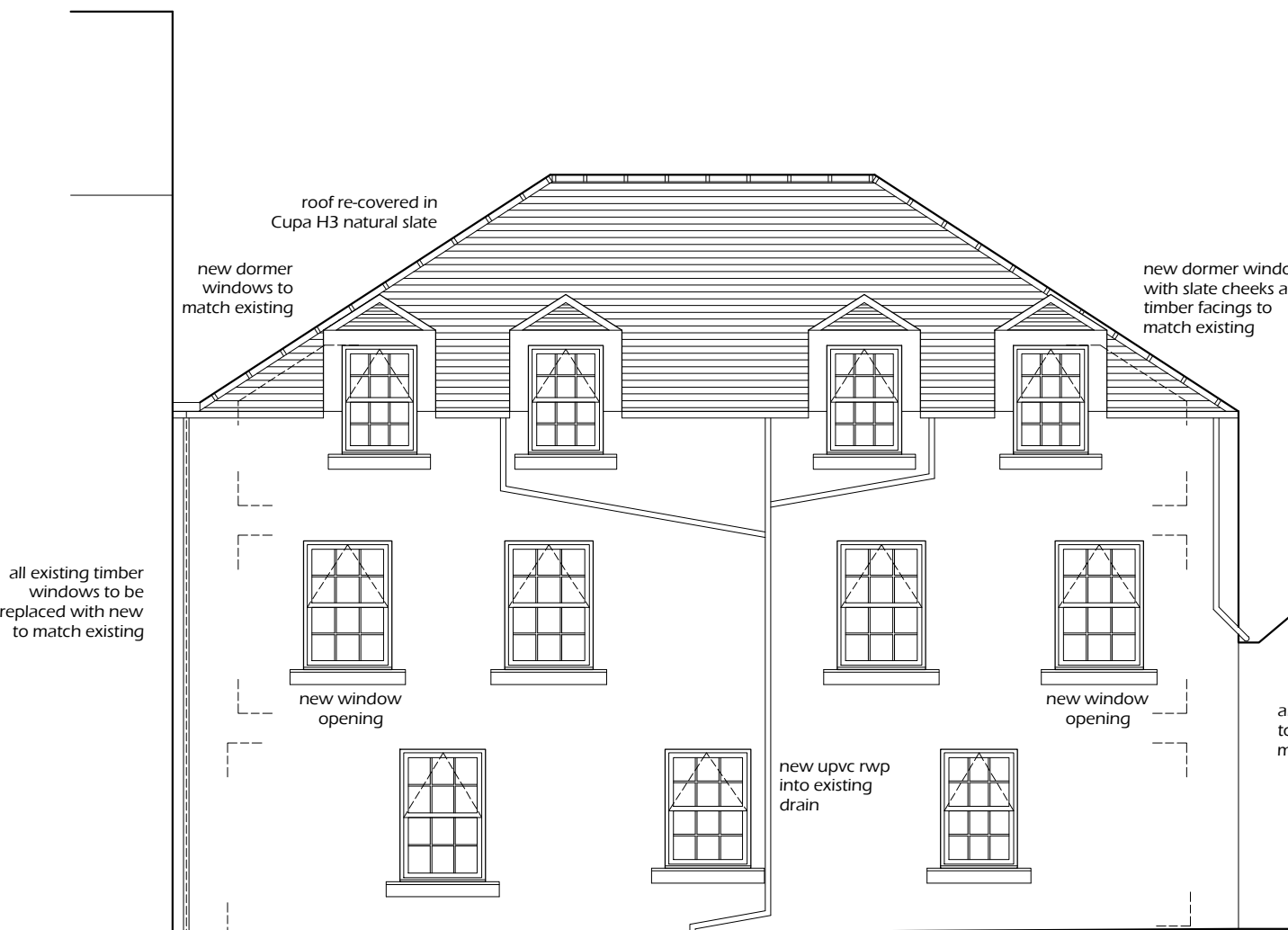
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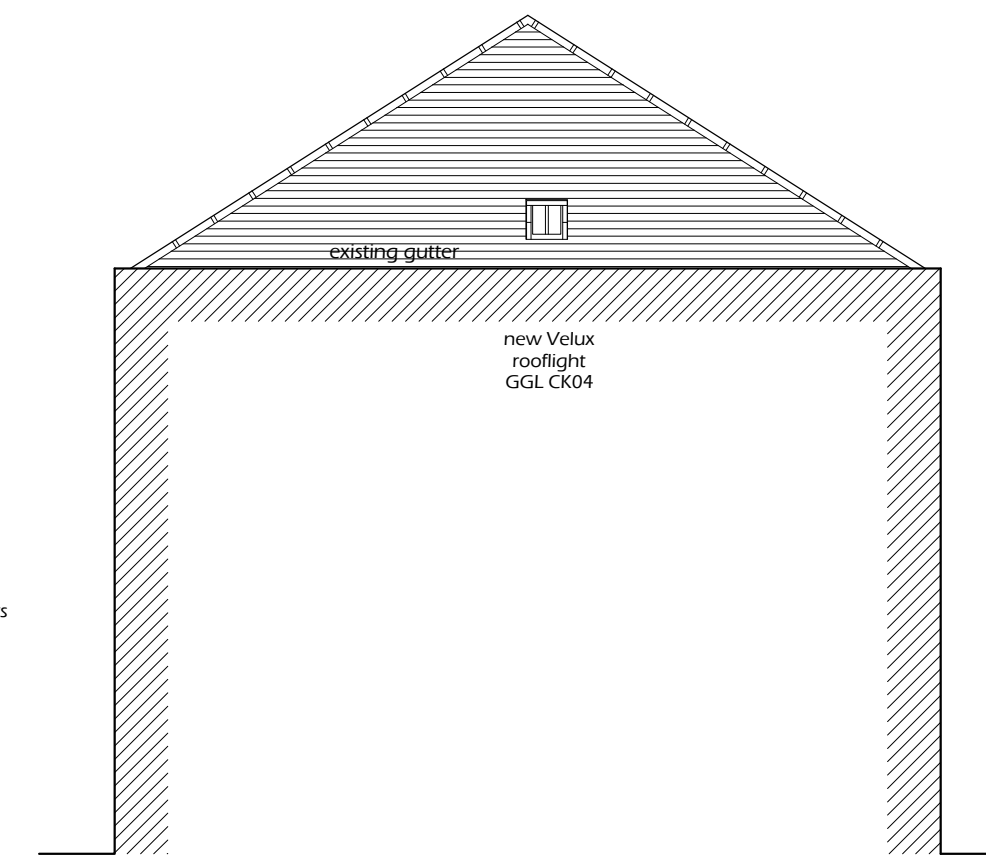
NORTH END ELEVATION



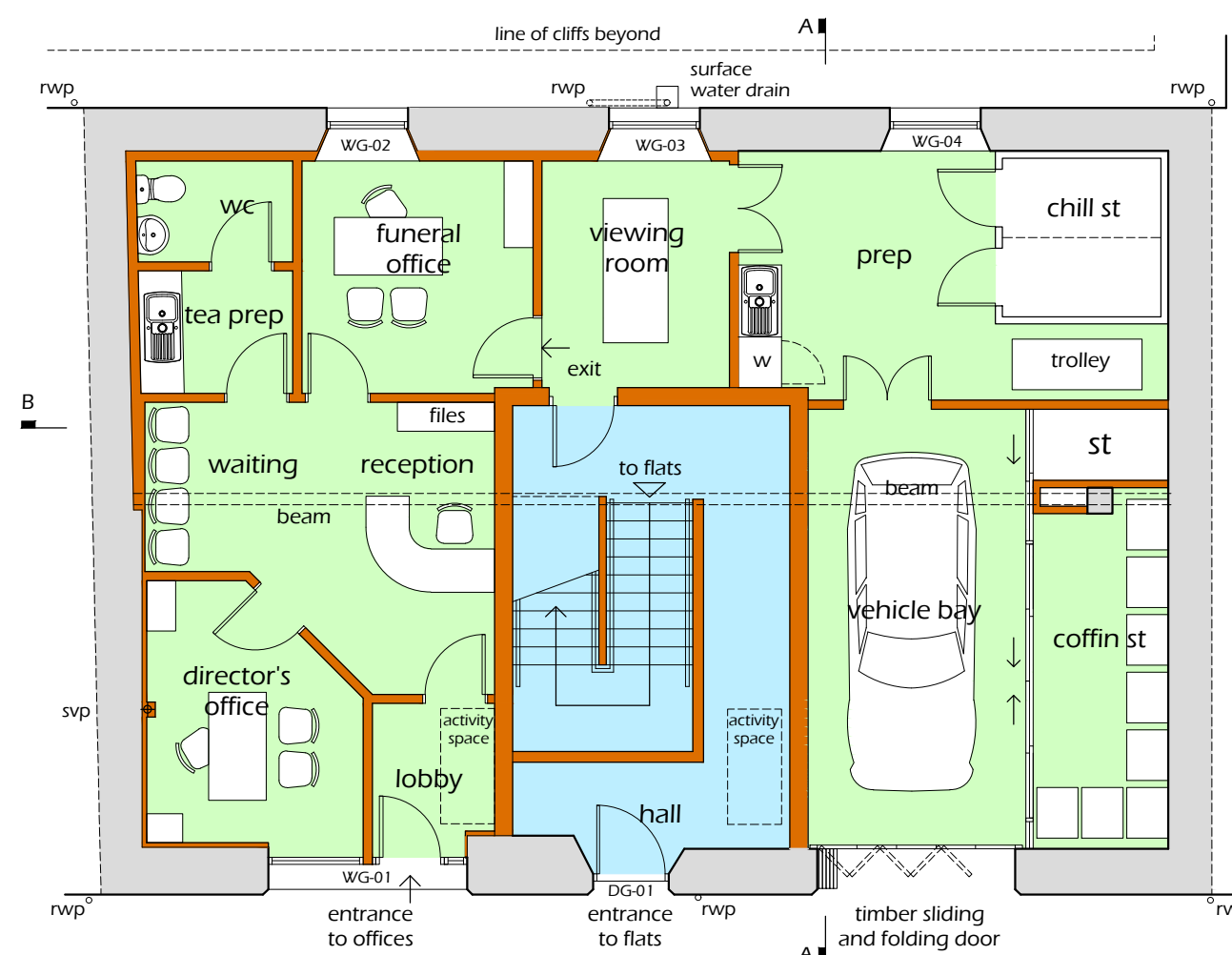
FRONT ELEVATION



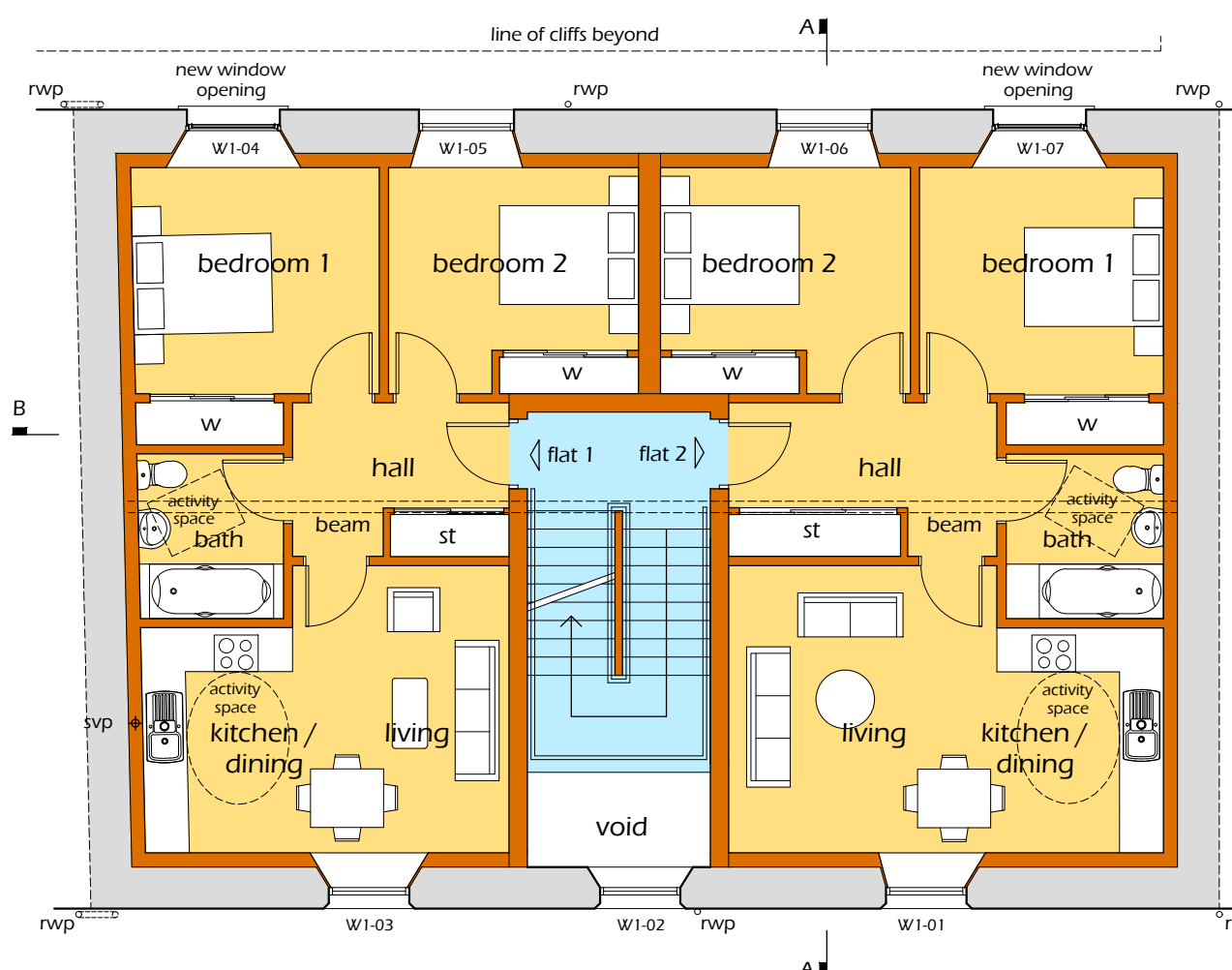
REAR ELEVATION



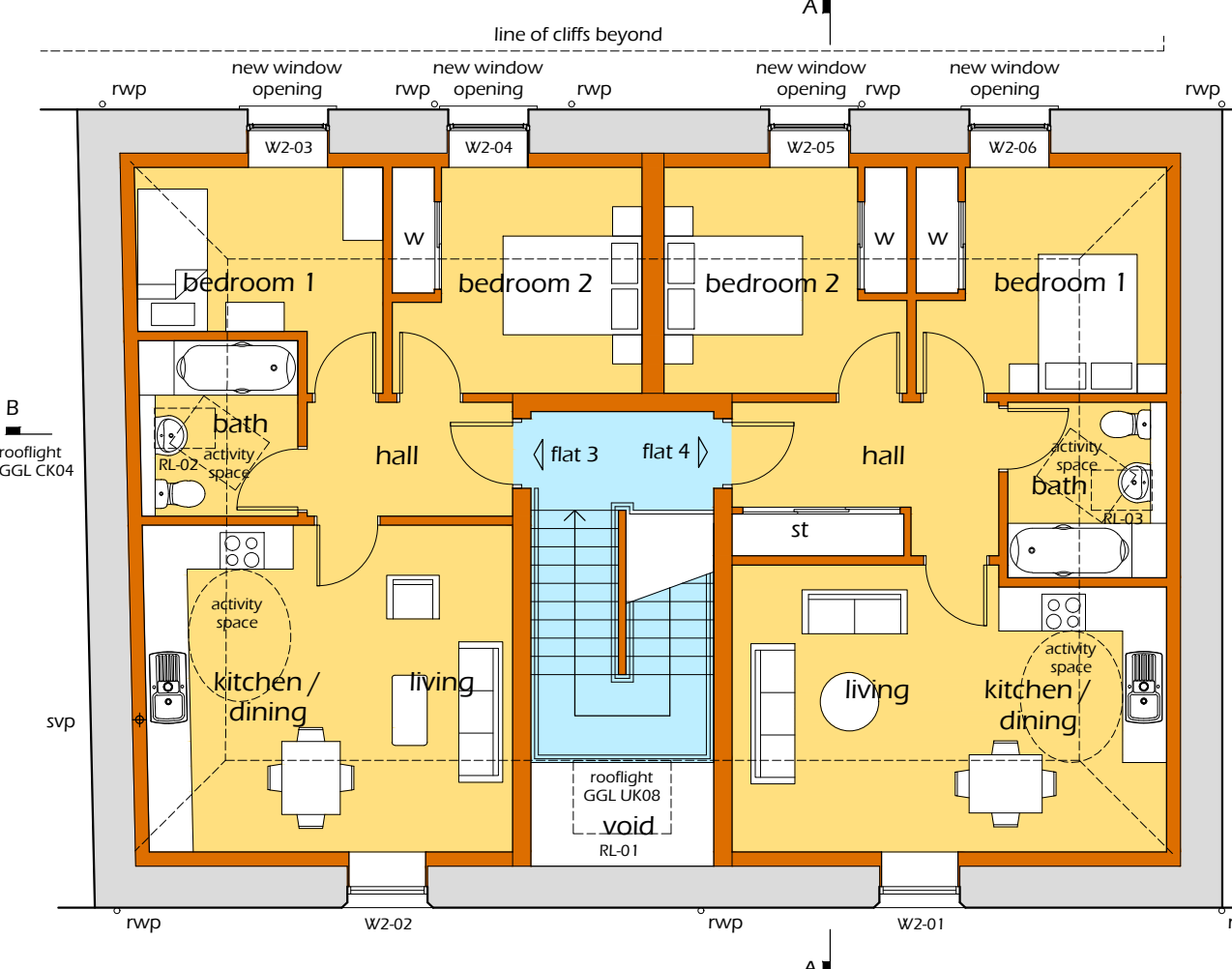
SOUTH END ELEVATION



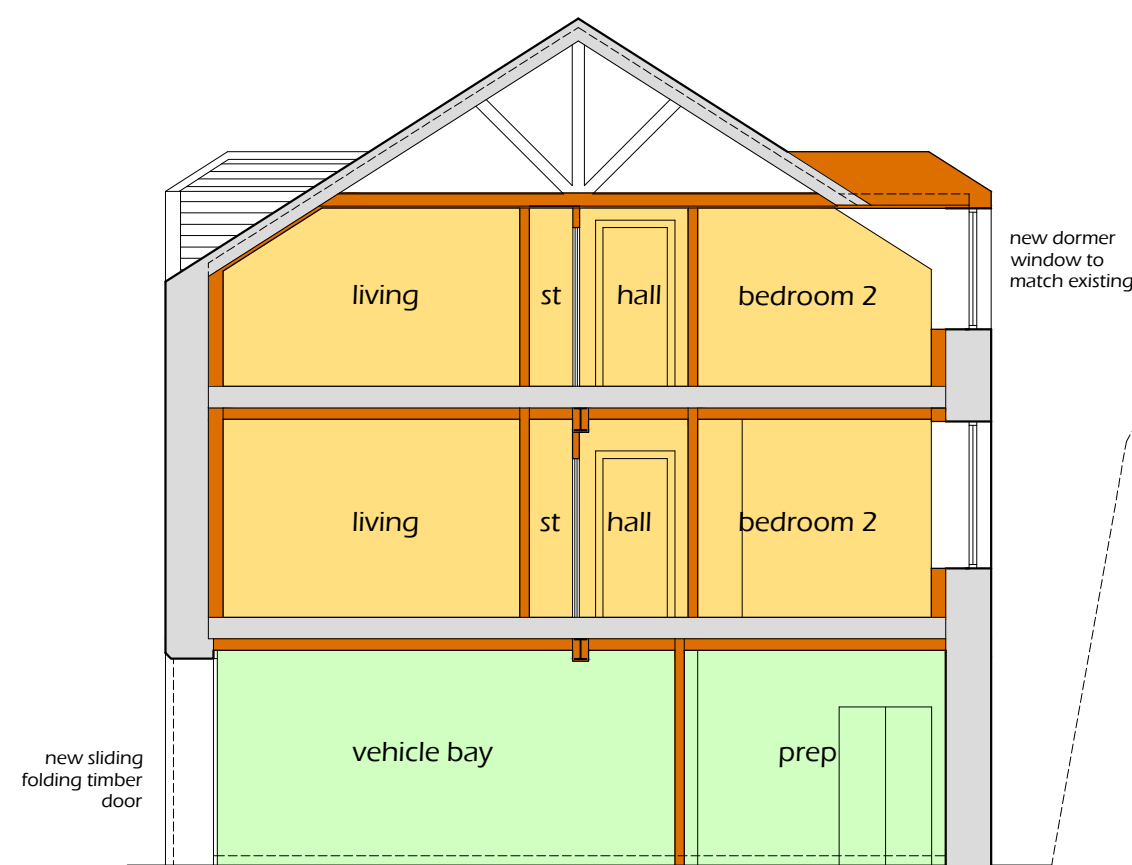
GROUND FLOOR PLAN



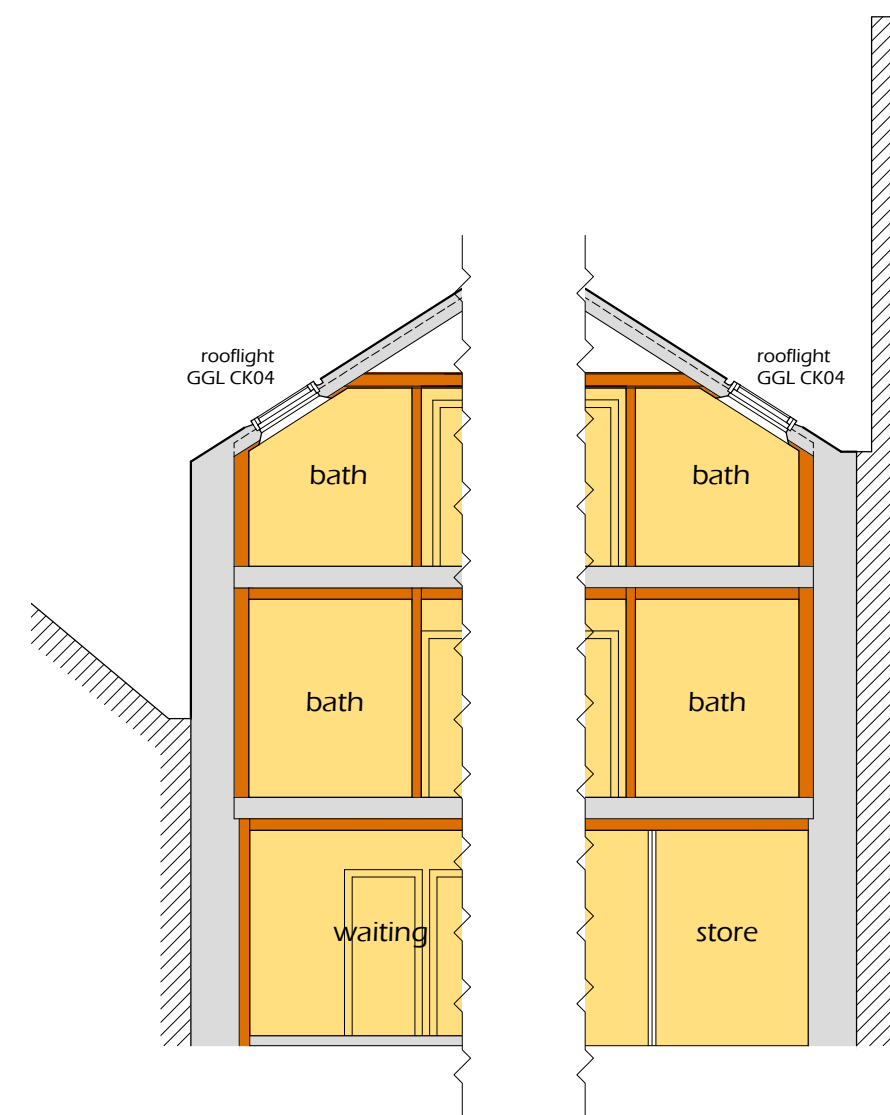
FIRST FLOOR PLAN



SECOND FLOOR PLAN



SECTION A-A



SECTION B-B

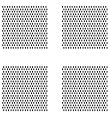
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date	revisions	mk	by	chk' d
12.9.19	Window and door numbers added and windows updated	A	HQ	
17.9.19	Rooflight numbers added	B	HQ	
18.9.19	Section B-B and end elevations added showing rooflights	C	HQ	



Bruce & Neil
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project Proposed Alterations to 37-39 Stevenson Street, Oban, Argyll		
client Hamish Hoey & Sons		
drawing title Plans, Elevations and Section As Proposed		
scale 1:100	date AUG 2019	drawn HQ
Job no. 0503	Drg no. 12 C	Checked

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PROJECT: ALTERATIONS & CHANGE OF USE AT 37-39 STEVENSON STREET OBAN

CLIENT: HAMISH HOEY & SONS

SUBJECT: PLANNING APPLICATION SUPPORTING STATEMENT

DATE: AUGUST 2019

1.0 BACKGROUND

- 1.1 The building is a Grade B Listed former grain store built in the mid 19th century. The building has been in the ownership of the Applicants for more than 30 years forming a base for their joinery, building and funeral undertaking business. During that time parts of the ground floor have been altered and improved to form offices and ancillary workshop/store spaces. The first and attic floors have undergone alterations prior to the buildings Listing in 1985 and these areas remain as storage spaces for the business
- 1.2 With a need to upgrade the undertaking aspects of the business and provide enhanced facilities on site, it is intended to carry out further alterations to the ground floor accommodation as shown on the application drawings. It is also proposed that the redundant store spaces on the upper floors are converted to provide flatted accommodation with the necessary independent access and escape stair provision.

2.0 DESIGN PROPOSALS

- 2.1 The applicants are very aware of the buildings local history and the prominent position it holds on Stevenson Street. In seeking to develop the building for their business, they are keen to carry out a sensitive conversion with minimal intervention to the external appearance. As a grain store, it is assumed that there was little significant interior detailing. Much of the buildings original interior detail has been lost already due to pre-Listing alterations and a fire.
- 2.2 In avoiding unnecessary external alteration, the new upper floor flats will be formed internally using existing window openings and the introduction of new windows and dormers to the concealed rear elevation as necessary, matching existing detailing
- 2.3 The current proposals are illustrated in the form of existing and proposed floor plans, cross-sections, elevations and site plan drawings and further described below

3.0 EXTERIOR

- 3.1 ROOF: Given the condition of the existing slate, it is proposed that the entire roof is re-slatted, using Cupa H3 natural Spanish slate for it similar appearance, colour and texture to traditional West Highland slate. This will also give opportunity to provide a breathable underlay membrane to assist in adding thermal insulation to the roof construction. To remove the need for extract ventilators from kitchen and bathroom areas being window mounted or penetrating external walls, these outlets will be conducted to roof level where they will be formed in proprietary slate vents incorporating a portion of adjoining slate material and a discreet flush ventilator grille. These fittings will also serve drain vent heads and will be more discreet than penetrating lead or plastic fittings.
- 3.2 WINDOWS:
Existing upper floor windows are formed from timber framed units with fine astragals forming a 12-pane pattern and bottom hung casement opening sections. The existing ground floor entrance screen to the offices is a replacement aluminium framed unit. It is proposed that these are all replaced with new timber framed double glazed units with opening upper sections to match appearance and meet Building Standards Regulation requirements.

- 3.3 **EXTERNAL DOORS:**
The office entrance door will be formed in timber as part of an overall screen as shown on the elevation drawings within the existing masonry opening. New vehicle bay doors will also be timber framed sliding units with glazed panels as shown to maintain a sympathetic appearance while providing necessary hearse access. The new external door forming access to the flats will be formed in a broadened existing window opening as shown. As part of this, care will be taken to remove and reinstate sandstone quoins at the broadened opening
- 3.4 **EXTERNAL WALLS:**
Beyond the masonry work to provide the flat entrance door on the front elevation, no alterations are proposed for the external walls
- 3.5 **ROOFLIGHTS:**
To provide daylighting, ventilation and roof access through upper floor shower rooms, it is proposed that a conservation pattern Velux rooflight is inserted in each position as shown on the plans. A similarly detailed rooflight will be provided to the front elevation to provide daylighting and emergency smoke removal from the escape stair serving the flats. These discreet units allow flush fitting within the line of the slatework
- 4.0 **SITE**
- 4.1 **ACCESS & PARKING:**
Pre-application discussion has confirmed that no dedicated car parking provision is required for a town centre flatted development of this size
- 4.2 **DRAINAGE:**
A foul drainage connection to the public sewer already exists at the building
- 4.3 **WATER SUPPLY:**
A connection to the public water supply already exists at the building

BRUCE & NEIL CHARTERED ARCHITECTS
AUGUST 2019



Bruce & Neil

Chartered Architects

Project Managers

Development Consultants

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

22/0004/LRB

**REFUSAL OF PLANNING PERMISSION 19/01858/PP FOR ALTERATIONS TO EXISTING
OFFICES AND FUNERAL FACILITIES AT GROUND FLOOR LEVEL AND ALTERATIONS
AND CHANGE OF USE OF FIRST AND SECOND FLOOR WORKSHOPS AND STORES
TO CREATE 4 FLATS**

37/39 STEVENSON STREET, OBAN

30/06/22

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Hamish Hoey and Son ('the appellant').

Planning permission 19/01858/PP for the alterations to existing offices and funeral facilities at ground floor level and alterations and change of use of first and second floor workshops and stores to create 4 flats at 37/39 Stevenson Street, Oban ("the appeal site") was refused by the Planning Service under delegated powers on 22/03/22.

The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

37/39 Stevenson Street is a two and a half storey stone and slate built structure situated within the main town centre of Oban which is currently being used as a joinery, building and funeral undertaking business.

As set out in the Report of Handling provided at Appendix 1 of this submission, whilst the proposed development complies with the adopted 'Argyll and Bute Local Development Plan' 2015 in all other respects, due to the proposal potentially placing buildings and persons at flood risk, it is considered to be contrary to Scottish Planning Policy, SEPA's Flood Guidance, Local Development Plan Policy and Supplementary Guidance and therefore planning permission was refused by the Planning Authority.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the proposed development complies with Scottish Planning Policy, SEPA's Flood Guidance documents and the Council's Flood Risk Policy and Supplementary Guidance.*

The ROH (Appendix 1) sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or

challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

- The appellant contends that the matters which led to the refusal of planning permission are not material considerations requiring the automatic need to refuse permission on the grounds of the objection from SEPA.

Planning Authority Comment: *As set out in the Report of Handling, Scottish Planning Policy, SEPA Flood Guidance and Local Development Plan Policy and Supplementary Guidance advocate the avoidance of built development within areas identified as being at medium to high risk of flooding.*

The proposed development is not sustainable in terms of flood risk as it would result in the introduction of residential units into an area identified as being at medium to high risk of flooding and which increases the land use vulnerability of the site, contrary to the principles of Scottish Planning Policy, the SEPA Development Management Guidance on Flood Risk and the SEPA Flood Risk and Land Use Vulnerability Guidance. Furthermore the development is contrary to Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the adopted 'Argyll and Bute Local Development Plan' 2015 which require development to be located out with areas of significant flood risk.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Taking all of the above into consideration, as set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed development is not sustainable in terms of flood risk as it would result in the introduction of residential units into an area identified as being at medium to high risk of flooding and which increases the land use vulnerability of the site, contrary to the principles of the policies and guidance referenced above and also in the Report of Handling.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

Notwithstanding the above, should Members be minded to uphold the Review, it will be necessary for the Scottish Government be notified of the Council's intention to grant planning permission for this development as a minor departure to the provisions of the Local Development Plan, and contrary to the advice of SEPA, under the Town And Country Planning (Notification Of Applications) (Scotland) Direction 2009.

APPENDIX 1

Report of Handling Relative to 19/01858/PP

Argyll and Bute Council
Development & Economic Growth

Delegated Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 19/01858/PP
Planning Hierarchy: Local Development
Applicant: Hamish Hoey & Son
Proposal: Alterations to Existing Offices and Funeral Facilities at Ground Floor Level and Alterations and Change of Use of First and Second Floor Workshops and Stores to Create 4 Flats
Site Address: 37/39 Stevenson Street, Oban

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Alterations to offices and funeral facilities at ground floor level
- Change of use of first and second floor workshops and stores to create 4 flats

(ii) Other specified operations

- Connection to public water main
 - Connection to public drainage system
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be **REFUSED** for the reasons appended to this report.

(C) CONSULTATIONS:

Roads Authority

Report dated 04/10/19 advising that the proposal is within the town centre where there is no requirement to provide parking and therefore they raise no objection.

Scottish Water

Letter dated 25/09/19 advising that they have no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and Oban Waste Water Treatment Works. Scottish Water do however advise that they are unable to confirm capacity and advise the applicant to submit a Pre-Development Enquiry Form to them for consideration.

Scottish Environment Protection Agency (SEPA)

In their response to the application dated 13/02/20 SEPA maintained their previous objection of 25/10/19 to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. SEPA advise that Flood Risk Assessment (FRA) updates or flood studies, if available, would require to be submitted to allow them to consider removing their objection. Commenting on the FRA submitted by the Agent in support of the proposal, SEPA advise that it was undertaken in 2009 and not for the specific development subject of the current application, albeit one on the same watercourse. SEPA advise that, in the intervening period, new hydrological modelling approaches have been developed, that climate change allowances for river flow and sea level rise have also been updated and these would have to be considered. SEPA conclude by advising that they also have concerns about coastal/tidal flooding for this area which has not been considered in the FRA, and whilst noting that some local measurements have been undertaken, but they still have concerns.

In light of these comments the Agent submitted supporting information to SEPA for consideration, details of which are outlined in the assessment at Section P below, and to which the Planning Authority sought a final comment from SEPA on. In a letter dated 17/03/21 SEPA, in summary, reiterated the comments that they provided in their previous responses to the application but did allude to the fact that, should a site specific FRA for the proposed development be undertaken, it is likely that it would only serve to confirm the serious flood risk to the site. On this basis SEPA confirmed that their objection to the proposed development has to be sustained.

JBA Consulting Ltd (JBA)

Report dated 21/10/19 deferring their decision until details are received sufficient to demonstrate that emergency pedestrian access/egress is achievable within a 1 in 200 year flood event.

The above represents a summary of the issues raised. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(D) HISTORY:

06/00942/DET & 06/00939/LIB

Alterations to undertakers premises and conversion of stores to residential flats –
Granted: 28/06/06 & 26/06/06

01/01211/LIB

Internal alterations – Granted: 29/08/01

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 24/10/19.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Statement: No

(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: No

(iii) A design or design/access statement: Yes

The application is accompanied by a Supporting Statement outlining the scope of the proposed development.

(iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: No

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

'Argyll and Bute Local Development Plan' Adopted March 2015

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones
(Settlement Zone of Oban)

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

Local Development Plan Schedules

‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ (Adopted March 2016)

Landscape and Design

SG LDP ENV 13 – Impact on Areas of Panoramic Quality (APQs) (*North West Argyll (Coast) APQ*)

SG LDP ENV 14 – Landscape

Historic Environment and Archaeology

SG LDP ENV 16(a) – Impact on Listed Buildings

Support for Business & Industry: General

SG LDP BUS 1 – Business & Industry Proposals in Existing Settlements and Identified Business & Industry Areas

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Addressing Climate Change

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

SG LDP Sust Check – Sustainability Checklist

Transport (Including Core Paths)

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 6 – Vehicle Parking Provision

SG LDP TRAN 7 – Safeguarding of Airports

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

- Scottish Planning Policy (SPP), 2014
- Argyll and Bute Sustainable Design Guidance, 2006
- SEPA Development Management Guidance: Flood Risk

- SEPA Flood Risk and Land Use Vulnerability Guidance
- Historic Environment Policy for Scotland (HEPS), 2019
- HES Managing Change in the Historic Environment – Setting, 2016
- HES Managing Change in the Historic Environment – Interiors, 2016
- HES Managing Change in the Historic Environment – Windows, 2018
- Consultation Responses
- Argyll and Bute proposed Local Development Plan 2 (November 2019)

The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:

- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 43 – Safeguarding of Aerodromes

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: No

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for alterations to existing offices and funeral facilities at ground floor level and alterations and change of use of first and second floor workshops and stores to create 4 flats at 37/39 Stevenson Street, Oban.

37/39 Stevenson Street is a Category C Listed Building (LB) and accordingly an associated application for Listed Building Consent, reference 19/01857/LIB, is currently with the Planning Authority for consideration.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is located within the settlement of Oban where Policy LDP DM 1 gives encouragement to sustainable forms of development subject to compliance

with other relevant policies and supplementary guidance (SG).

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. As detailed above the building is a Category C LB which requires the provisions of SG LDP ENV 16(a) to be considered the main of which is to protect LBs, and their settings, from inappropriate development which would have a detrimental impact. The site is also within the North West Argyll (Coast) APQ which requires the provisions of SG LDP ENV 13 to be considered in development proposals which seeks to ensure that developments are of an appropriate scale and design and do not detract from the landscape within which they are proposed.

Policy LDP 5 and SG LDP BUS 1 give support to new and existing businesses which help deliver sustainable economic growth throughout the area.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. SG 2 expands on this policy seeking developments affecting LBs to be of the highest quality, design and finishes to ensure that there is no significant adverse impact on the appearance or setting of the LB.

Historic Environment Policy for Scotland (HEPS) 2019 seeks to protect LBs, and their settings, from inappropriate developments which would have a detrimental impact. The Managing Change suite of publications provide further advice on setting, interiors and windows to ensure that developments affecting a LB are of the highest quality, design and finishes to ensure that there is no significant adverse impact on the appearance or setting of the LB.

37/39 Stevenson Street is a two and a half storey stone and slate built structure situated within the main town centre of Oban which is currently being used as a joinery, building and funeral undertaking business.

The application is seeking to secure permission to provide enhanced facilities at ground floor level to serve the undertaker aspect of the business with the upper floors redeveloped to provide four flats, two on each floor. The majority of works involved in the proposal are internal to create the necessary accommodation. A site inspection of the property identified that there are no features of architectural or historic importance that would be lost as a result of the proposed internal works to facilitate the redevelopment. Externally an existing window at ground floor level will be changed to a timber door to provide a dedicated access to the proposed flats with the existing store doors and office doors at ground floor level changed to timber units. New timber windows are proposed within the existing window openings throughout the building with new openings formed in the rear elevation of the upper floors to serve the internal layout of the proposed flats, four of which are dormer windows which match the existing dormer windows to the front elevation of the building. Three rooflights are proposed within the roof plane of the building, one to each side elevation and one to the front elevation. Finally, the roof will be re-slatted in Spanish slate which the Planning Authority has previously accepted on LBs, however the finer detail of the specific slate will be sought by condition to ensure it is a suitable replacement.

Overall, it is considered that the proposed scheme to refurbish the existing building has been sympathetically designed to ensure that the proposed development will integrate well within the site and will have no significant adverse impact on the LB, its setting or its setting within the wider APQ. The design and finishes of the

proposed development are considered to be acceptable and in compliance with the requirements of the policies and guidance set out above.

No change to the existing servicing or infrastructure arrangements currently serving the building are proposed as part of this application. Such details comprise utilisation of existing on-street parking provision and public water and drainage connections. The Council's Roads Engineer has advised that the proposal is within the town centre where there is no requirement to provide parking and therefore they raise no objection. Scottish Water advised that they have no objection to the proposed development which would be serviced from the Tullich Water Treatment Works and Oban Waste Water Treatment Works but do advise that they are unable to confirm capacity and advise the applicant to submit a Pre-Development Enquiry Form to them for consideration. In this regard the proposal is considered to be acceptable in terms of Policy LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP and Policy 35 of pLDP2 which collectively seek to ensure that suitable infrastructure is available to serve developments.

Due to the proximity of the site to the Black Lynn Burn, comments were sought from JBA and SEPA. JBA deferred their decision until such time as details of emergency pedestrian access/egress to the site achievable under a 1 in 200 year flood event were demonstrated. SEPA have objected to the proposal on flood risk grounds advising that the site lies within the medium likelihood (0.5% annual probability or 1 in 200 year return period) fluvial and coastal flood extents as shown within the SEPA Flood Map and therefore may be at medium to high risk of flooding. SEPA also advise that they have a number of records of historical flooding in the surrounding area attributed to both coastal, river and surface water flooding.

In light of these comments the Agent submitted supporting information to JBA and SEPA for consideration.

In summary, JBA advised that the supporting information submitted was mainly qualitative and did not consider a 200 year flood event and, whilst the accompanying report was quantitative, it was dated 2009 and would need to be updated. JBA recommended that the applicant confirm with SEPA that there is no objection in principle to the development, and if this is the case, a quantitative FRA considering the 200 year event be undertaken which would require to consider joint probability between coastal and fluvial flooding and should consider how safe access and egress would be managed.

In their response to the supporting information SEPA advised that they maintained their objection to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to SPP. SEPA advised that FRA updates or flood studies, if available, would require to be submitted to allow them to consider removing their objection. Commenting on the supporting information submitted by the Agent in support of the proposal, SEPA advised that it was undertaken in 2009 and not for the specific development subject of the current application, albeit one on the same watercourse. SEPA advised that, in the intervening period, new hydrological modelling approaches have been developed and that climate change allowances for river flow and sea level rise have also been updated and these would have to be considered for the site. SEPA concluded by advising that they also have concerns about coastal/tidal flooding for this area which has not been considered in the FRA, and, whilst noting that some local measurements have been undertaken, still raise concerns.

In response, the Agent has advised that, in his opinion and given the earlier objections raised by JBA and SEPA, there is no likelihood that either objection will be withdrawn against a background of SEPAs own flood prediction modelling. Following the refusal to accept a FRA for a site located further upstream at the Black Lynn Burn at Lochside Street prepared in 2009, the Agent advised that their Client's local Consultant has confirmed that a fresh FRA based on current predictions would be unlikely to demonstrate any lesser risk of 1:200 year event flooding at the application site. The Agent states that it appears that the objections are based on the serious but unlikely coincidence of tidal (and therefore temporary) flooding at the application site with the need for an emergency evacuation of a resident from the proposed flats. The Agent advised that a digital topographic survey of the rock face and banking to the rear of the building was undertaken to investigate the possibility of an alternative emergency escape route from the top floor to Star Brae. However, given the relative heights and levels involved, advised that this would require a series of stairs and ramps from the top floor to reach Star Brae to a geometry acceptable to Building Standards, which, in planning terms, would unlikely to be acceptable with stairs, ramps and handrails visible from Star Brae and certain parts of Stevenson Street, Airds Crescent and Combie Street, forming a visible backdrop to the LB. The Agent states that, in the unlikely event of the need to use this emergency access/escape, the route from the top floor of the building across these stairs and ramps for evacuation to the even steeper Star Brae and a safe vehicle location adjacent to the Free Church is likely to be even more hazardous and unsuitable than evacuation through a partially flooded Stevenson Street at the front of the building. The Agent concluded by stating, notwithstanding the authority of the Statutory Consultees and their Flood Assessment Modelling, refusal of this application on the basis of short term tidal flooding on a 1:200 year event coinciding with an emergency in the building will effectively sterilise this prominent LB in its town centre location for use in adaptation to much needed town centre housing.

Officers can make no comment on the above other than to acknowledge the applicant's unwillingness to provide the additional information required by both SEPA and the Council's flood risk advisor.

The comments submitted by the Agent were passed to SEPA for final comment who have made the following summary points as their final consultation response:

- The site is shown to be at risk from fluvial and coastal flood sources on our SEPA flood maps (there is also a surface water risk).
- Our flood records state that Stevenson Street flooded in 2005 to a depth of 2-3 feet, from tidal/coastal inundation only.
- The street could also flood from the watercourse on its own, or in combination with the tide – there is a degree of tide locking of the culverts and drains in this area even when the tide is high (but not over the quayside) which could cause serious fluvial flooding if the burn is backed-up.
- As such, we previously requested a detailed FRA that is site-specific to the building in question – however, this has not been provided. If one was undertaken, it is likely that it would only serve to confirm the serious flood risk to the site.

- The proposal represents an increase in vulnerability from Least to Highly vulnerable – if the building was to remain in Least vulnerable use (e.g. offices, services, workshop) then we would have no issue with its redevelopment/reuse.
- The proposal to build stairs up the cliff behind the building is unacceptable – as stated in our published guidance, egress routes have to be safe, flood free and account for people of all abilities (e.g. young, old, infirm, wheelchair bound etc).
- In conclusion, our objection has to be sustained.

In light of the above, whilst the proposed development complies with the LDP in all other respects, due to the proposal potentially placing buildings and persons at flood risk, it is considered to be contrary to SPP, SEPA's Flood Guidance documents as well as the Council's own flood risk policy and SG and therefore it is recommended that planning permission be refused.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission should be Refused

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:
No

Author of Report: Fiona Scott

Date: 17/03/22

Reviewing Officer: Tim Williams

Date: 22/03/22

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO REFERENCE 19/01858/PP

1. Scottish Planning Policy, SEPA Flood Guidance and Local Development Plan Policy advocate the avoidance of built development within areas identified as being at medium to high risk of flooding. In limited circumstances it may be appropriate for development to be permitted within these areas however the proposed development does not satisfy the required criteria.

The proposed development is not sustainable in terms of flood risk as it would result in the introduction of residential units into an area identified as being at medium to high risk of flooding and which increases the land use vulnerability of the site, contrary to the principles of Scottish Planning Policy, the SEPA Development Management Guidance on Flood Risk and the SEPA Flood Risk and Land Use Vulnerability Guidance. Furthermore the development is contrary to Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the adopted 'Argyll and Bute Local Development Plan' 2015 which require development to be located out with areas of significant flood risk.

There are no material considerations which are of sufficient weight meriting the departure from national and local planning policy.

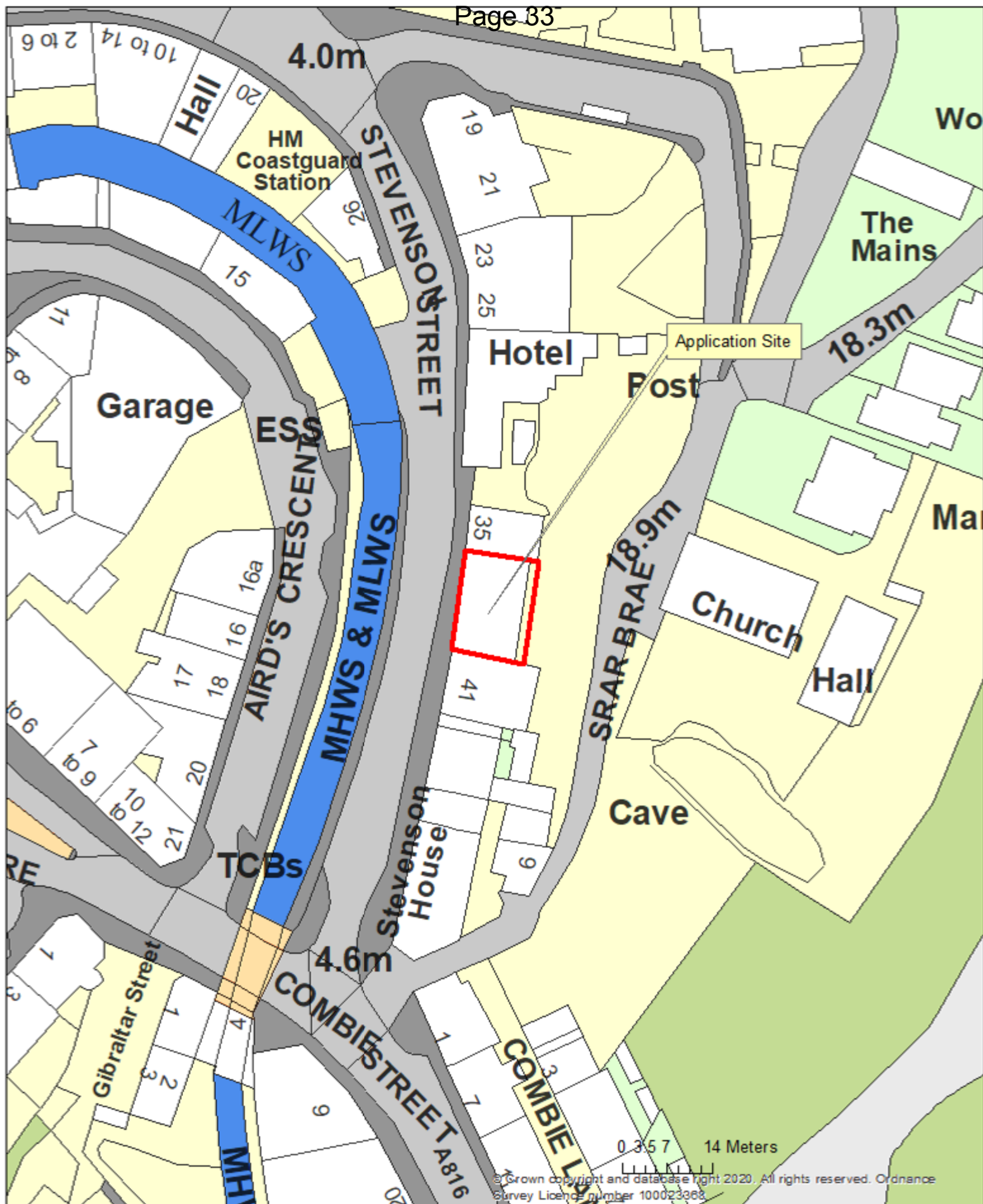
APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **19/01858/PP**

(A)	Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.	No
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(B) The reason why planning permission has been refused:

See Reasons for Refusal Above



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PROJECT: ALTERATIONS & CHANGE OF USE AT 37-39 STEVENSON STREET, OBAN, PA34 5NA

CLIENT: HAMISH HOEY & SON

SUBJECT: APPELLANTS RESPONSE TO PLANNING DEPARTMENTS STATEMENT OF CASE

DATE: 15 JULY 2022

1.0 PURPOSE

- 1.1 This statement represents the Appellants response to the Statement of Case dated 30 June 2022 prepared by the Planning Department responding to the Appellants original submission and Local Review Request under reference 22/0004/LRB

2.0 RESPONSE TO POINTS

- 2.1 It is noted that the Planning Authority have not presented new information beyond their justification for refusal produced as part of the formal Planning Decision and reproduced as Appendix A in their statement. However, the Appellant wishes to clarify other points contained in the Planning Departments Statement of Case as detailed below.

3.0 PUBLIC INTEREST

- 3.1 The Appellant agrees with the general statement by the Planning Authority to the effect that there was no particular public interest noted in the formal application process by way of statements of support, representation or objection.
- 3.2 However, the Local Press gave publicity to the Refusal Decision through social media on the Facebook platform. The Oban Times gave a fair summary of the Refusal Decision, citing the Appellants initial proposals and the reasons for refusal on grounds of perceived flood risk. This brought considerable adverse reaction from members of the public on the same social media platform, citing apparent lack of common sense in the refusal decision against a background of perceived housing need, particularly in Oban town centre.
- 3.3 It is appreciated that publicity and reaction through social media does not form part of the formal Planning process. However, it is inaccurate to state that there has been no public interest in the application or the Refusal Decision.

4.0 IMPACT OF OVERTURNING THE DECISION

- 4.1 Notwithstanding the National Planning Guidance to recommend refusal on the basis of the SEPA objection, the Planning Department have noted in their statement that their overturning of the Refusal Decision would constitute only a minor departure from the Councils own Local Development Plan.
- 4.2 In view of these considerations and the other points stated as part of this Review Request, the Appellants opinion is emphasised on the basis that upholding the Refusal Decision will have more serious implications for this Listed Building and potential town centre housing than the implications of reversing the Refusal Decision to allow the proposed development
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