

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.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	100614370-003							
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 A	gent 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 Applicant Applicant								
Agent Details								
Please enter Agent details	3							
Company/Organisation:	Felsham Planning and Development							
Ref. Number:		You must enter a B	You must enter a Building Name or Number, or both: *					
First Name: *	Philip	Building Name:						
Last Name: *	Neaves	Building Number:	1					
Telephone Number: *		Address 1 (Street): *	1 Western Terrace					
Extension Number:		Address 2:						
Mobile Number:		Town/City: *	Edinburgh					
Fax Number:		Country: *	Scotland					
		Postcode: *	EH12 5QF					
Email Address: *								
Is the applicant an individu	ual or an organisation/corporate entity? *							
☐ Individual ☒ Organ	nisation/Corporate entity							

Applicant Details							
Please enter Applicant details							
Title:	Mr	You must enter a Bu	You must enter a Building Name or Number, or both: *				
Other Title:		Building Name:					
First Name: *	С	Building Number:	39				
Last Name: *	Hardy	Address 1 (Street): *	Turnhouse Road				
Company/Organisation	Corstorphine Building & Roofing	Address 2:					
Telephone Number: *		Town/City: *	Edinburgh				
Extension Number:		Country: *	United Kingdom				
Mobile Number:		Postcode: *	EH12 0AE				
Fax Number:							
Email Address: *							
Site Address	Details						
Planning Authority:	City of Edinburgh Council						
Full postal address of th	e site (including postcode where available	e):					
Address 1:	NEWHOUSE FARM						
Address 2:	LONG DALMAHOY ROAD						
Address 3:	DALMAHOY						
Address 4:							
Address 5:							
Town/City/Settlement:	KIRKNEWTON						
Post Code:	EDINBURGH						
Please identify/describe the location of the site or sites							
Northing	667922	Easting	314961				

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]					
Detailed Planning Application for 2 Dwellings, Access & Landscaping					
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 a 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 he 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.					
Please see attached Appeal Statement					
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *					
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 sto rely on in support of your review. You can attach these documents electronically later in the			intend					
1 Block Plan 2 Design Statement 3 Elevations House Type 2 4 Elevations House Type 3 5 Location Plan 6 Planning Statement 7 Site Layout Plan 8 Application form 9 Decision Notice 10 Report of Handling								
Application Details								
Please provide the application reference no. given to you by your planning authority for your previous application.	23/00663/FUL							
What date was the application submitted to the planning authority? *	16/02/2023							
What date was the decision issued by the planning authority? *	24/03/2023	4/03/2023						
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 in parties only, without any further procedures? For example, written submission, hearing sess \boxtimes Yes \square No		yourself and o	other					
In the event that the Local Review Body appointed to consider your application decides to install	spect the site, in your op	oinion:						
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 in to submit all this information may result in your appeal being deemed invalid.	formation in support of	your appeal.	Failure					
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 treview? *	his 🛛 Yes 🗌 N	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 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 □ N	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 *		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: Mr Philip Neaves

Declaration Date: 19/05/2023



Newhouse Farm, Long Dalmahoy Road, Dalmahoy, Kirknewton, EH27 8EE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

APPEAL AGAINST REFUSAL—23/00663/FUL
FOR
Application for 2 dwellings, access, and landscaping



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Development
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1.0 Introduction

Felsham Planning & Development Ltd (FPD) are planning advisor to Corstorphine Building & Roofing (the Appellant). We are instructed to submit an appeal against the refusal of planning permission on 24 March 2023 in respect of planning application ref 23/00663/FUL for:

Application for 2 dwellings, access, and landscaping.

at Anderson Transport Newhouse Farm Long Dalmahoy Road Dalmahoy, Kirknewton, EH27 8EE.

The application was submitted on 16 February 2023 and registered on the same day. The application was determined under delegated powers on 24 March 2023, refusing the application.

The Council refused the application on the following grounds:-

- The proposal is contrary to NPF 4 policy 8 (Green belts) as it does not meet the relevant criteria for residential development in this green belt location and will be harmful to its landscape quality and rural character through intrusion onto agricultural land.
- The proposal is contrary to NPF 4 policy 9 b) (Brownfield, vacant and derelict land) as the residential use of this greenfield site is not supported in principle by policies in the LDP.
- The proposal is contrary to NPF 4 policy 15 (Local Living and 20 minute neighbourhoods) as
 the proposal will not contribute towards local living as the residential development would
 not have good local access to range of sustainable modes of transport, local facilities or
 services.
- 4. The proposal is contrary to NPF 4 policy 17 (Rural Homes) as the new homes are not located on land designated for housing in the LDP and do not meet the relevant circumstances where this land use will be supported.

Important Points to Note about the Application

- The site is within the Greenbelt however the whole Newhouses settlement is also within that
 designation and the recent consent (on neighbouring site) is also on greenbelt land and therefore
 sets a precedent for development on the application site.
- There were 6 template objections to the proposal at the time of the applications determination.
 Each objection repeated the same point and was retitled for each party.
- The site is covered by the following designations:
 - 1. The site is not within the conservation area;
 - 2. It is not in the Native woodland Integrated Habitat Network
 - Forestry Commission Scotland designation of Woodlands In and Around Towns (WIAT) and Conservancy Boundaries.
 - 4. Central Scotland Green Network (CSGN) boundary.
- There are no nearby Scheduled Ancient Monument (SAM) or listed buildings.
- The site does not have any river flooding or coastal flooding issues.



2.0 The Site

The site is located to the south of an existing development of 8 dwellings within the small settlement of Newhouse. There is an existing grouping of residential dwellings and farm buildings to the south of Long Dalmahoy Road and Dalmahoy Golf Course (the "Site"). The site is approximately 1.069 acres (4326.5sq.m).

The site forms part of an irregular corner of an agricultural field. The site is bounded to the north by residential development, to the west and east by field margins / tracks with agricultural land further afield to the west. To the east by horse pasture, and farm land. Electricity pylons run west / east to the south of the site boundary. Electricity poles run west / east to the north of the site boundary.

The topography of the site is relatively flat but runs to the . Access to the site is from the existing access from Long Dalmahoy Road to the north.

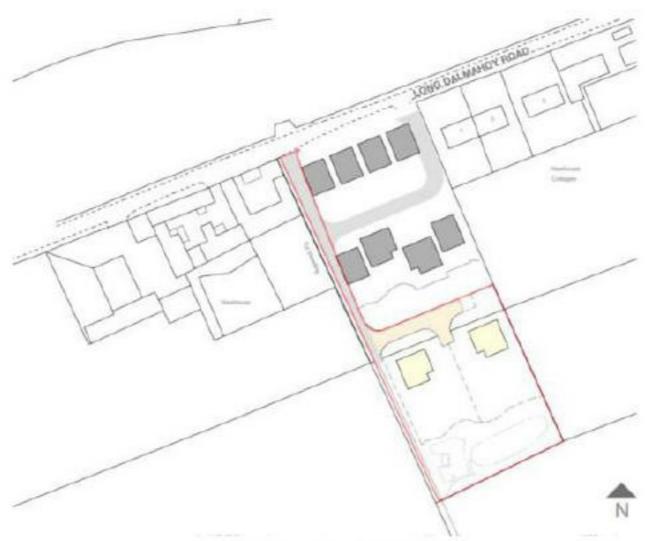


Figure 1 - Site Location



Figure 2 - Brownfield Site & Proposed Building (Dwelling) Location

The application site is partly located on a brownfield site (black boundary) see Figure 2. The proposed 2 dwellings are accessed from this brownfield land and are located on its boundary (green dots).



3.0 The Proposal

The Proposal

The proposal consists of a residential development of 2 dwellings. The dwellings consist of 2no. 5 bedroom dwellings. The proposed plots face south across the open agricultural land. The detached houses each have two in-curtilage parking spaces within the front gardens (north) and 2 visitor spaces.

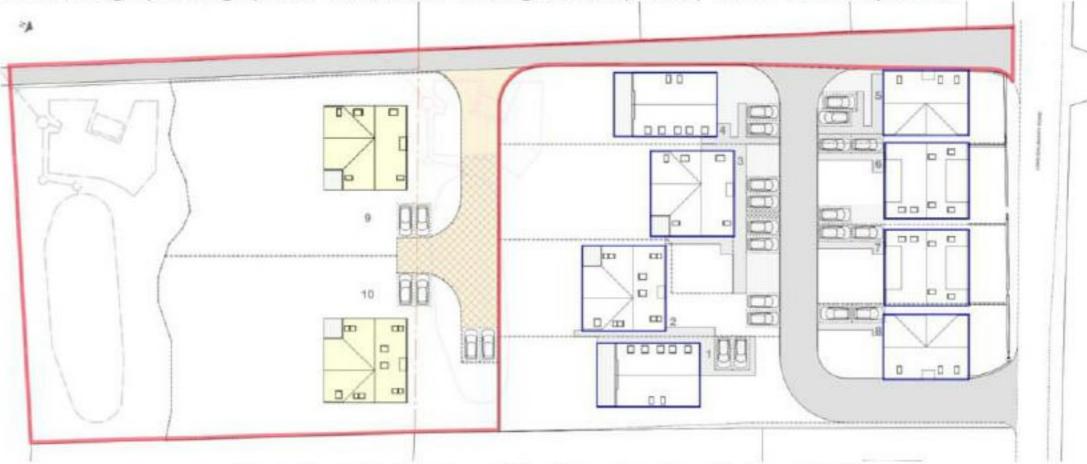


Figure 3 - Indicative Layout (red line denotes site boundary)

Elevations and materials proposed are shown on the Design Statement and drawings mentioned in Section 1 above submitted in support of the planning application.

4.0 Planning History

The adjoining site to the north has the following planning history:

- 18 June 2021 Planning permission granted to alter existing residential layout, form sewage treatments works and erect 8 houses (amendment to 17/02707/FUL) (as amended) - application reference: 19/04036/FUL – GRANTED 18 June 2021
- 9 November 2017 Planning permission granted for the erection of 7 dwelling houses application reference: 17/02707/FUL; and
- 20 July 2016 Planning permission granted for the erection of 7 dwelling houses following appeal against delegated refusal to the Local Review Body - application reference: 15/05455/FUL.

5.0 Basis for Determining a Planning Application

Section 25 of the Town & Country Planning (Scotland) Act 1997 states:

'Where in making any determination under the Planning Act, regard is to be had to the Development Plan that determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise'.

Section 37 should be read alongside Section 25. Section 37 (2) states:

'In dealing with an application, the Planning Authority shall have regard to the provisions of the Development Plan so far as material to the application and to any other material considerations.

The House of Lords in its judgement in the City of Edinburgh Council v Secretary of State for Scotland case



1998 (SLT120) ruled that if a proposal accords with the Development Plan and no other material considerations indicate that it should be refused, planning permission should be granted. It ruled that:

'Although priority must be given to the Development Plan in determining a planning application, there is built in flexibility depending on the facts and circumstances of each case.'

The judgement set out the following approach to determining a planning application:

- 1. Identify any provisions of the Development Plan that are relevant to the decision;
- Consider them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies;
- 3. Consider whether or not the proposal accords with the Development Plan;
- 4. Identify and consider relevant material considerations for and against the proposal; and
- 5. Assess whether these considerations warrant a departure from the Development Plan.

This judgement sets out a clear and methodical approach to determining a planning application and clarifies how the Development Plan should be used.

The determining authority must first consider whether the proposal accords with the Development Plan. It is important to consider not only the detailed wording of policy, but the aims and objectives of the policy maker. If a proposal is considered to accord with the Development Plan, it follows that consent should be granted unless any site-specific matters preclude consent.

Scottish Planning Policy (SPP) further clarifies this point. Paragraph 8 sets out the 'core principles' which should underpin the 'modernised system'. The third core principle states:

'Confidence in the planning system needs to be reinforced through the efficient and predictable preparation of plans and handling of applications; transparency in decision making and reliable enforcement of the law and planning decisions.'

The House of Lords has ruled that material considerations must satisfy two tests:

- They must be planning considerations, in other words, they must have consequences for the use and development of land or the character of the use of the land; and
- They must be material to the circumstances of the case and they must relate to the proposed development.

There may be circumstances where the achievement of one policy objective requires another policy to be waived or reduced in impact.

In assessing this proposal would be successful, we believe that it is also relevant to refer to two further court decisions Tesco Stores v. Dundee [2012] PTSR 983.

Paragraph 18 of the Dundee decision states:

The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by the planning authority in its decision making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and the planning authority... the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, whilst allowing a measure of flexibility to be retained.

Paragraph 19 continues:

The development plan should be interpreted objectively in accordance with the language used...that is not to say that such statements should be construed as if they are statutory or



contractual provisions. Although a development plan has a legal status and legal effects it is not analogous in its nature or purpose to a statute or contract... development plans are full of broad statements of policy many of which may be mutually irreconcilable, so that in a particular case one must give way to another... many of the provisions of the development plan are framed in language whose application to a given set of facts requires the exercise of judgement. Such matters fall within the jurisdiction of planning authorities.

The Court ruled that the interpretation of planning policy is a matter of law but the application of planning policy is a matter of planning judgment, therefore provided the planning authority demonstrates a proper understanding of policy in its reasoning it can proceed as it sees fit and weigh one policy against another and/or give weight to factors other than policy in its determination.

The key is that the Courts have confirmed that the development plan provides the planning authority with discretionary powers and these can be used flexibility. It is not sufficient to conclude that in the planning authority's view the proposal does not comply with elements of policy. Instead the Courts require the 5-step procedure set out in the 1998 City of Edinburgh Council House of Lords case to be followed. The planning authority must take a view on a case by case basis with the development plan the starting point for its assessment but not the concluding point. It may be the case that a policy intended to apply across the Local Plan area is clearly not applicable to specific circumstances of a particular site.

The decision-maker will only be entitled to conclude that development is unsustainable if the evidence demonstrates that the dis-benefits significantly outweigh its benefits when tested against each of the 13 sustainability principles. If having applied this test, the conclusion is that the proposal is unsustainable the presumption in favour of planning permission being granted will not require to be given weight when tested against the development plan and other relevant material considerations.

If the conclusion is that the proposal will contribute towards sustainable development, the decision-maker is then expected to test the proposal against the development plan and other relevant material considerations and, in doing so, to attach significant weight to the presumption that planning permission should be granted on the basis that the development is sustainable.

6.0 Planning Policy & Assessment

The Council refused the application on the following grounds:-

- 1. The proposal is contrary to NPF 4 policy 8 (Green belts) as it does not meet the relevant criteria for residential development in this green belt location and will be harmful to its landscape quality and rural character through intrusion onto agricultural land.
- 2. The proposal is contrary to NPF 4 policy 9 b) (Brownfield, vacant and derelict land) as the residential use of this greenfield site is not supported in principle by policies in the LDP.
- The proposal is contrary to NPF 4 policy 15 (Local Living and 20 minute neighbourhoods) as the proposal will not contribute towards local living as the residential development would not have good local access to range of sustainable modes of transport, local facilities or services.
- 4. The proposal is contrary to NPF 4 policy 17 (Rural Homes) as the new homes are not located on land designated for housing in the LDP and do not meet the relevant circumstances where this land use will be supported.

The Council have not cited any policies from the Adopted LDP as reasons for refusal.



Below are the NPF4 Policies that the reason for refusal cite and our comments regarding their interpretation against the application.

NPF4 - Policy 8 Green Belts

<u>Applicants Comments:</u> The designated Greenbelt in this location is not confined to the boundary of the settlement but covers all of the Newhouse settlement. It therefore does not serve as a boundary to define development. The application boundary also encompasses part of a neighbouring brownfield site that has permission to be developed for 8 new houses, consent REF: 19/04036/FUL. The garden ground of the proposed dwellings extends into the agricultural land and therefore does not detract from the green nature of the existing land and landscape.

The proposals aim to ensure development contributes to a sense of place and is good design. The design incorporates built forms and materials which match those approved in adjacent permissions. It does not alter and maintains a consistent frontage to Long Dalmahoy Road and respects the prevalent settlement pattern by having a constrained access from the main road, with accommodation arranged to the rear of existing dwellings with buildings forming a screen to the road.

The proposals are a modest extension to the existing residential development in the Newhouse small settlement. The proposals do not detract from the landscape quality or rural character of the area but enhance it by the use of natural materials selected from those already used in the locale and the use of built forms which reflect those in the settlement.

The site would be an extension to an existing building group and a case is made to support its development because it will not undermine the principles of the green belt:

- Prevention of coalescence there is no prospect that development of the subject site will lead to coalescence;
- Protect the setting of the town the site is part of a building group and development will round off that building group;
- Protect countryside around towns the site is not open countryside and is part of a building group.

The site can be developed in accordance with the development plan and should be based upon the following considerations:

- Site boundary is contiguous with the settlement boundary;
- The proposal is of an appropriate scale to the existing small settlement;
- Landscape character is protected;
- Complements the character of the building group by using the same materials pallet and scale;
- Site and proposed development are sustainable;
- Environmental quality is not compromised;
- Development is of high quality, including buildings, layout and relationship to existing settlement.

NPF 4 - Policy 9 Brownfield, vacant and derelict land and empty buildings

<u>Applicants Comments:</u> The proposals are not allocated in the LDP for residential development. As mentioned in relation to Policy 8 the site is partially within a brownfield site and the proposed new dwellings are on the boundary of that brownfield land. The application boundary also overlaps with



the consent 19/04036/FUL.

NPF 4 - Policy 15 Local Living and 20 minute neighbourhoods

<u>Applicants Comments:</u> The proposal is not contrary to the principle of NPF 4 policy 15 (Local Living and 20 minute neighbourhoods) as the proposal will contribute towards local living as the residential development would be well related to the recently approved residential development it neighbours. It has access to transport, local facilities or services via Long Dalmahoy Road and public transport.

The president has been set for development in this location by consent 19/04036/FUL.

NPF 4 – Policy 17 (Rural Homes)

<u>Applicants Comments:</u> The proposals site is not allocated for residential development. The site is however, in compliance with the statement:-

a) Development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:

The development has a positive impact on the surroundings and character and views are respected by the form, positioning and materials of the proposals. The proposals continue the design vocabulary approved in neighbouring permissions. The additional houses will be 1.5 storeys high and of a style and scale that is in keeping with other buildings in the settlement. Viewed from the landscape, the development presents a silhouette which is broken up and layered compared to the existing monolithic form. The low stone wall along the northern boundary that matches adjoining properties and helps to define the road-side curtilage, is retained.

Material Considerations

A significant material consideration is the following planning consent:-

 18 June 2021 - Planning permission granted to alter existing residential layout, form sewage treatments works and erect 8 houses (amendment to 17/02707/FUL) (as amended) - application reference: 19/04036/FUL – GRANTED 18 June 2021

The permission overlaps the application site and establishes that residential development is appropriate in this location.

As we have mentioned above, the amenity of the neighbours is maintained. There are no new views created that do not currently exist. Privacy is not affected.

7.0 Conclusions

The Planning Act requires development to be in accordance with the Development Plan unless material considerations indicate otherwise. We have undertaken our assessment on this basis. There is a policy balance to be made.

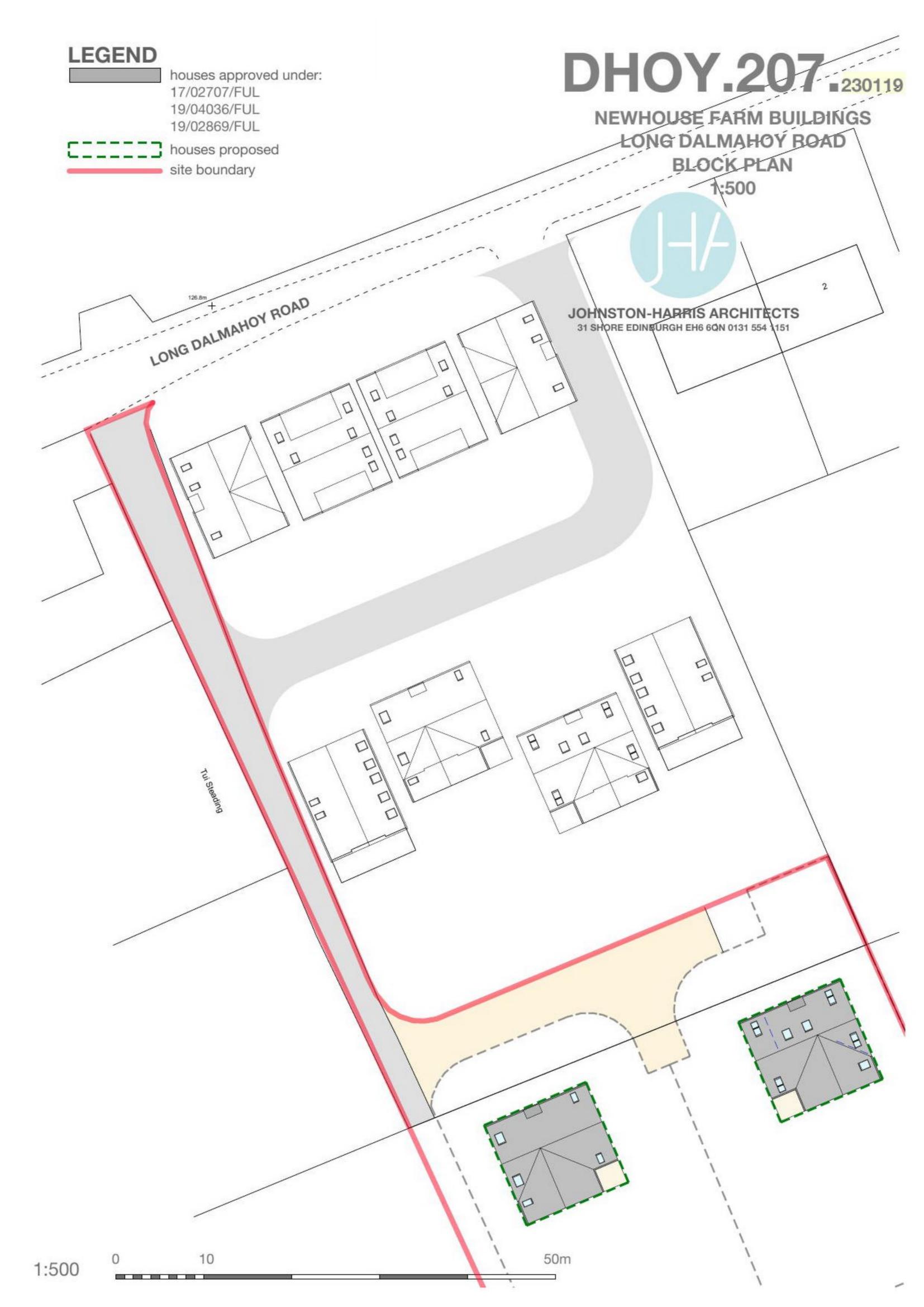


Having assessed the aims and objectives of the relevant polices and assessed material considerations our conclusions are as follows:

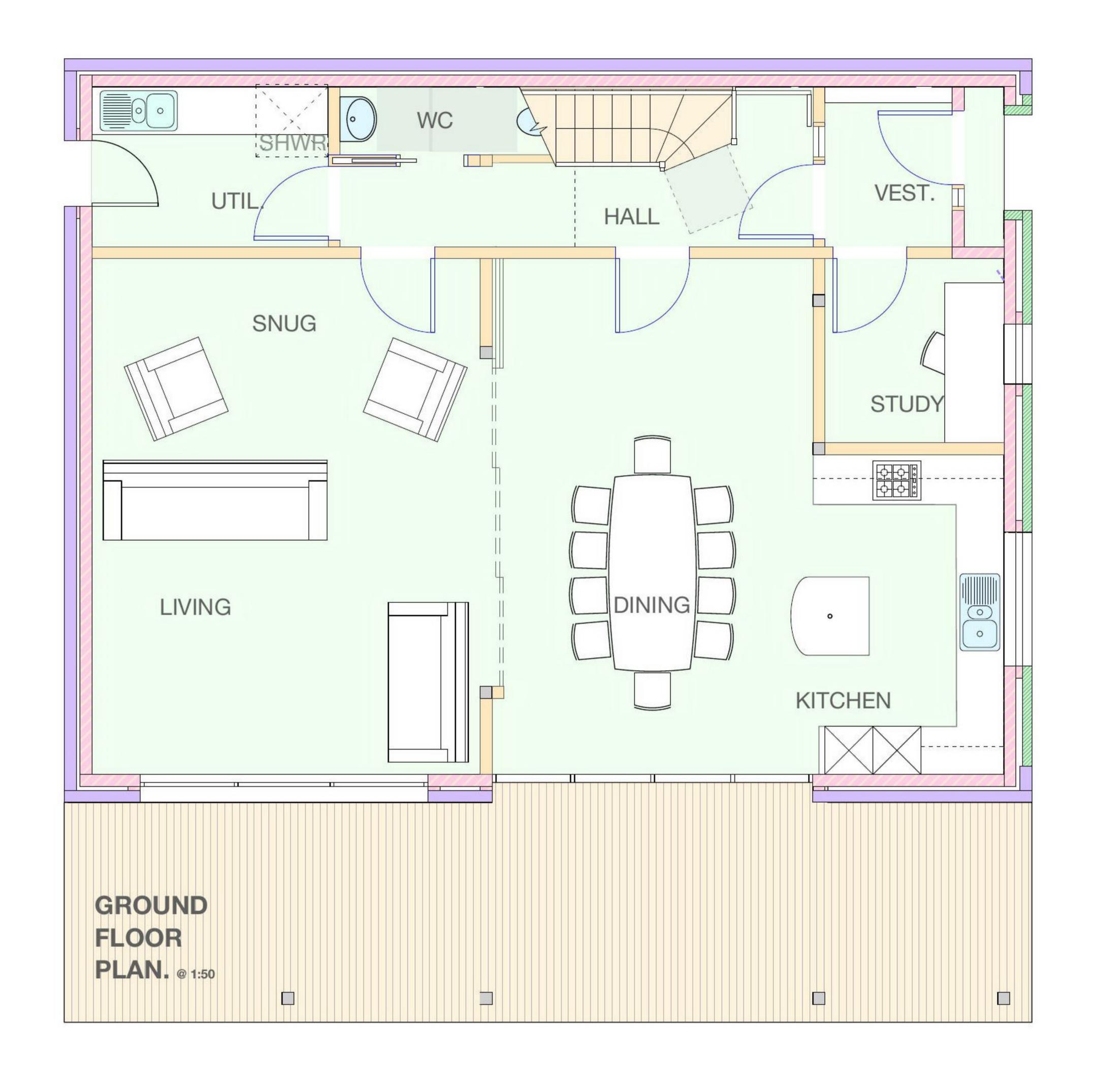
- > There is no conflict with NPF4 that cannot be overcome by the use of good planning judgement;
- Planning Consent 19/04036/FUL GRANTED 18 June 2021 is a significant material consideration establishing the president for development in this location;
- The site is partially located on a brownfield site;
- > The site is a privately owned site capable of residential development;
- The site is partially enclosed and screened from public views. Further afield views from the west and east will not alter due to development of the site;
- ➤ No conflict with established land use development is compatible with the surrounding land uses;
- Respects scale, form, design and materials the design of the proposal has had regard to the character and appearance of the surrounding area. The scale, design and materials are appropriate to the area;
- The site is sustainable with good links to existing transportation and pedestrian networks;
- The proposals incorporate design principles and energy efficient technologies to ensure it is sustainable development;
- No significant loss of daylight, sunlight or privacy to the surrounding existing residential properties.
 The development can be accommodated within the plot with no impact on its neighbours;
- Important local, national or European landscape and environmental designation do not cover the site and neighbour area.
- No unacceptable generation of traffic or noise; and
- Visual impact- the scale, design and materials are appropriate to the area. The design of the scheme has taken account of the characteristics of the area.

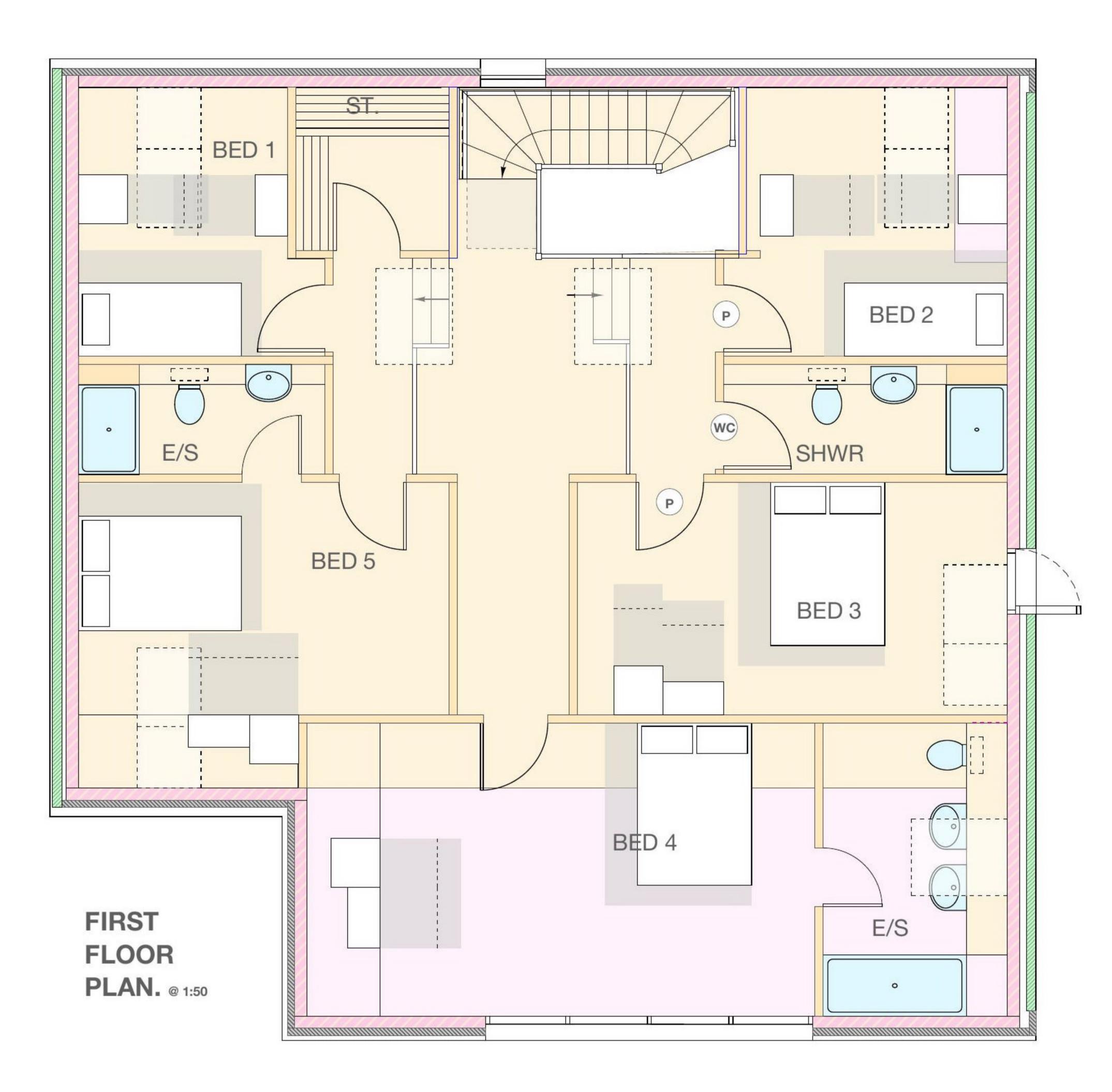
The Appellant's case is that this proposal should be judged as suitable in all respects.

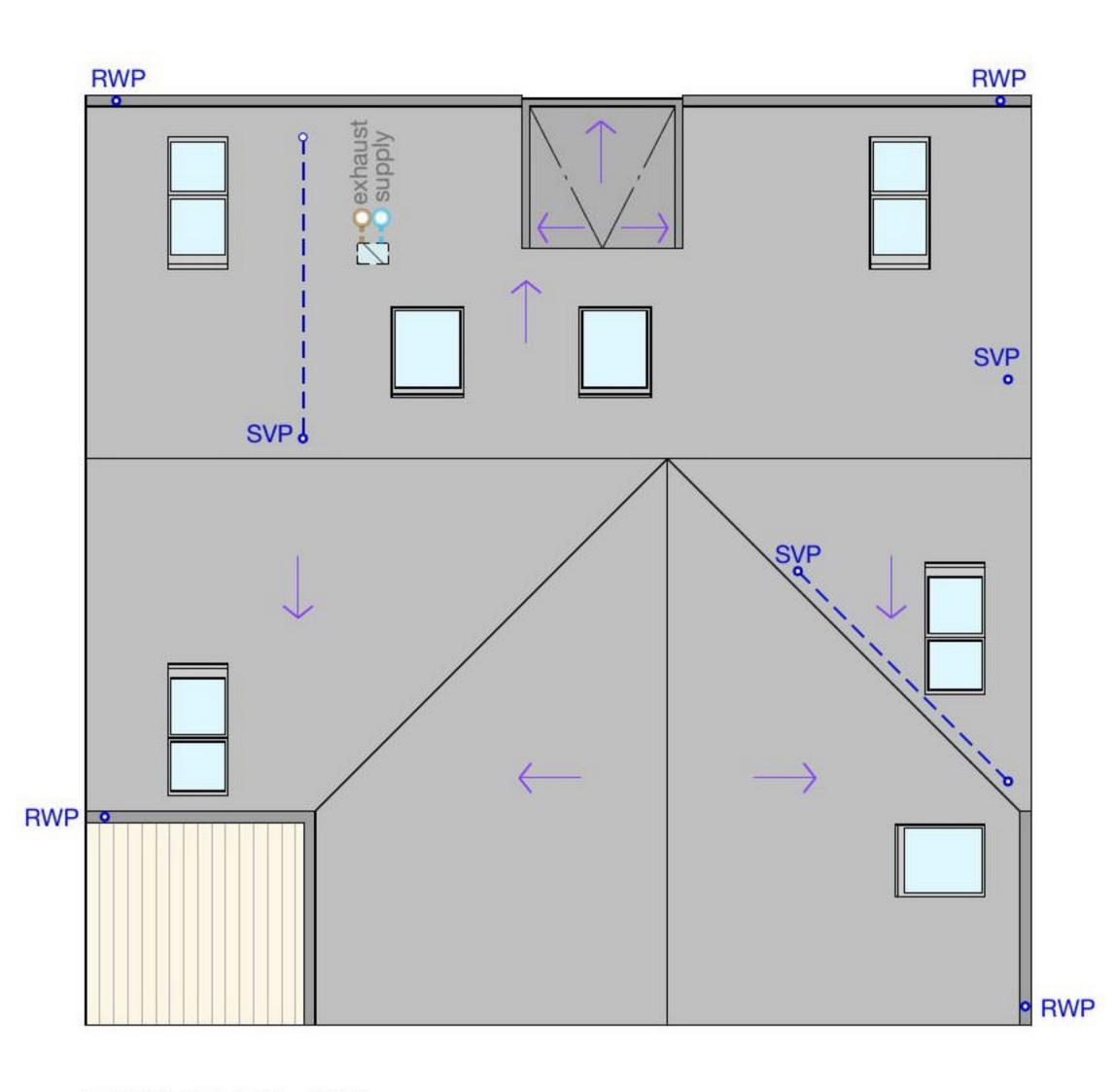
For these reasons we respectfully request that the appeal should be allowed.



House Type 2







ROOF PLAN. @ 1:100

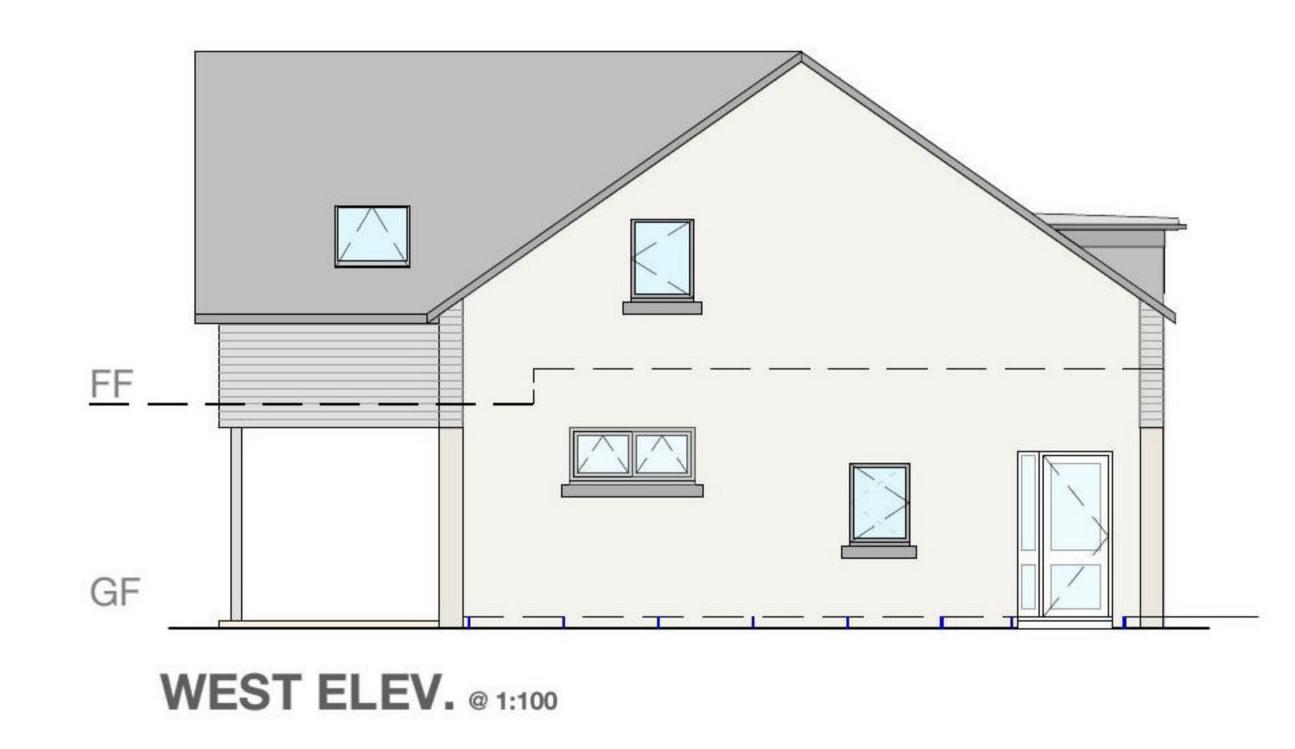


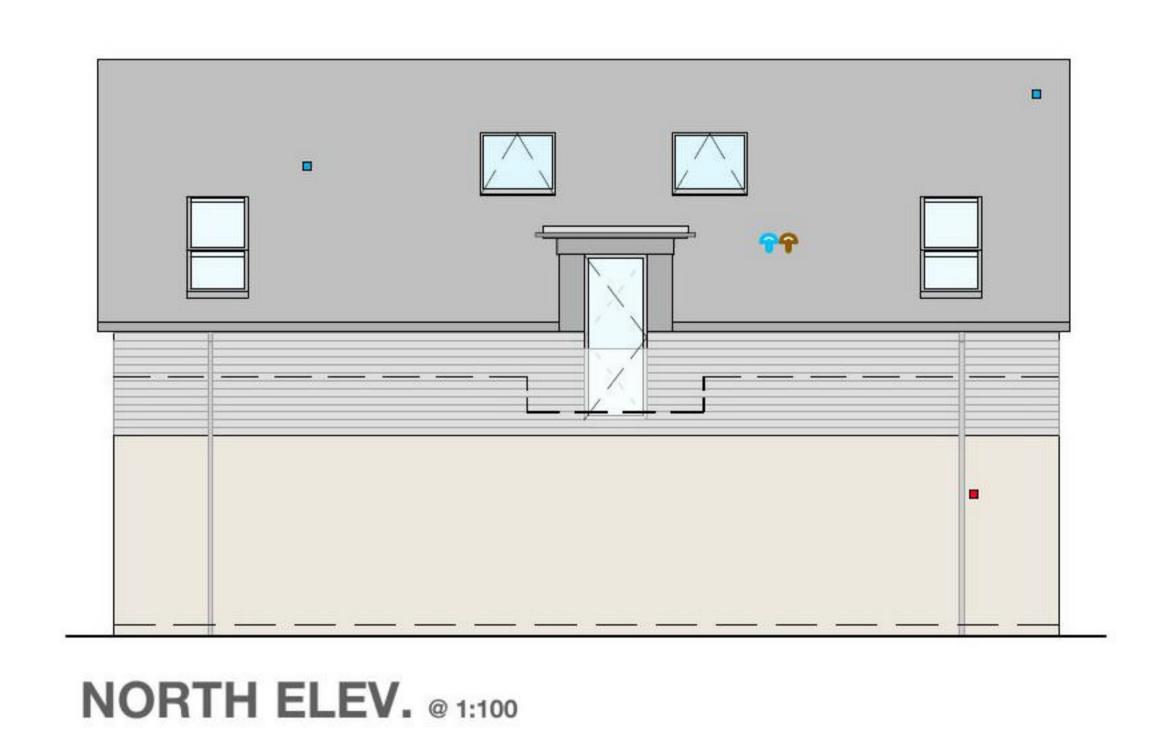
DHOX.212.230120

NEWHOUSE FARM BUILDINGS
LONG DALMAHOY ROAD
HOUSE TYPE 2

PROPOSED GENERAL ARRANGEMENT
1:50 1:100 @A1







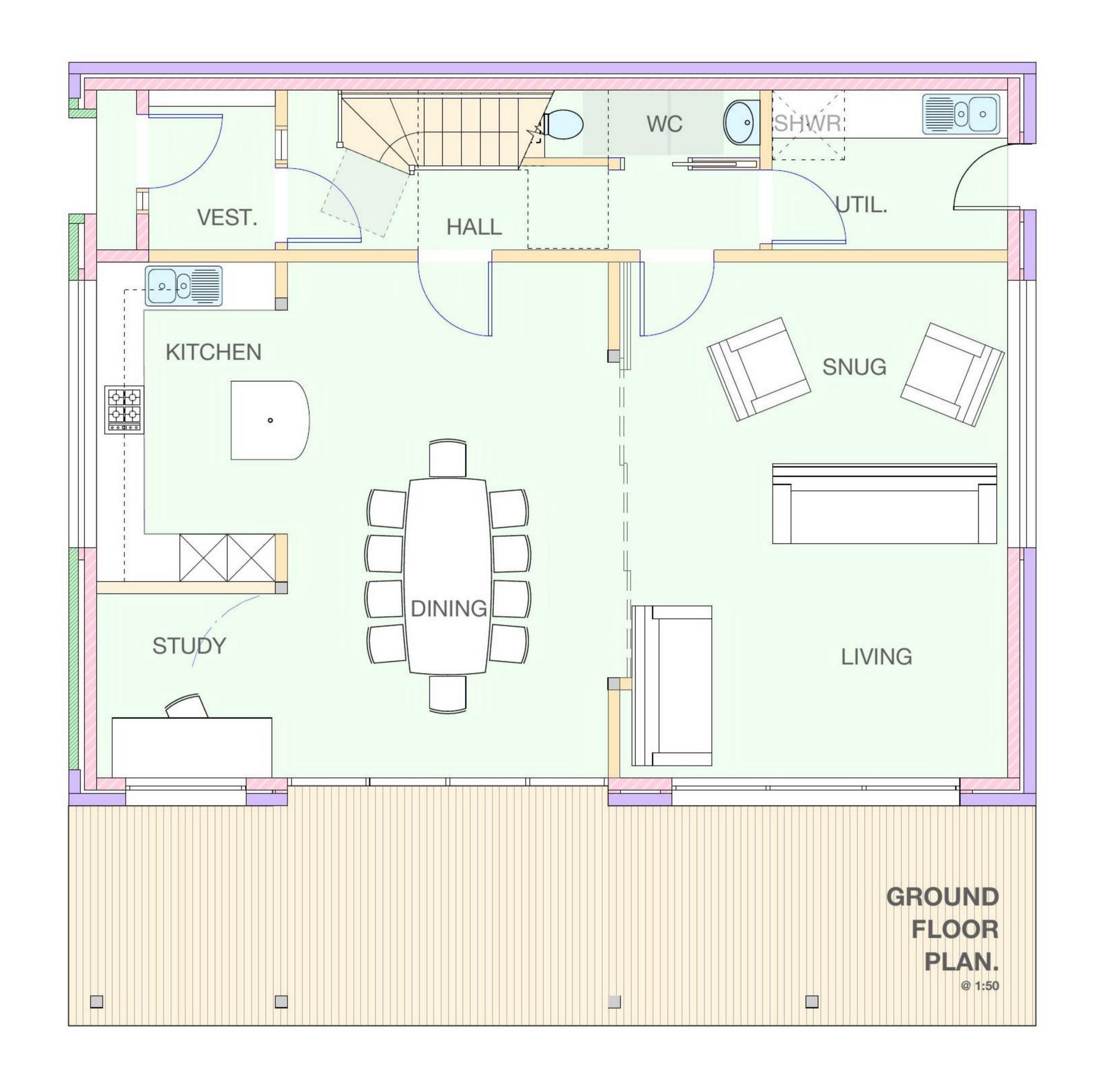


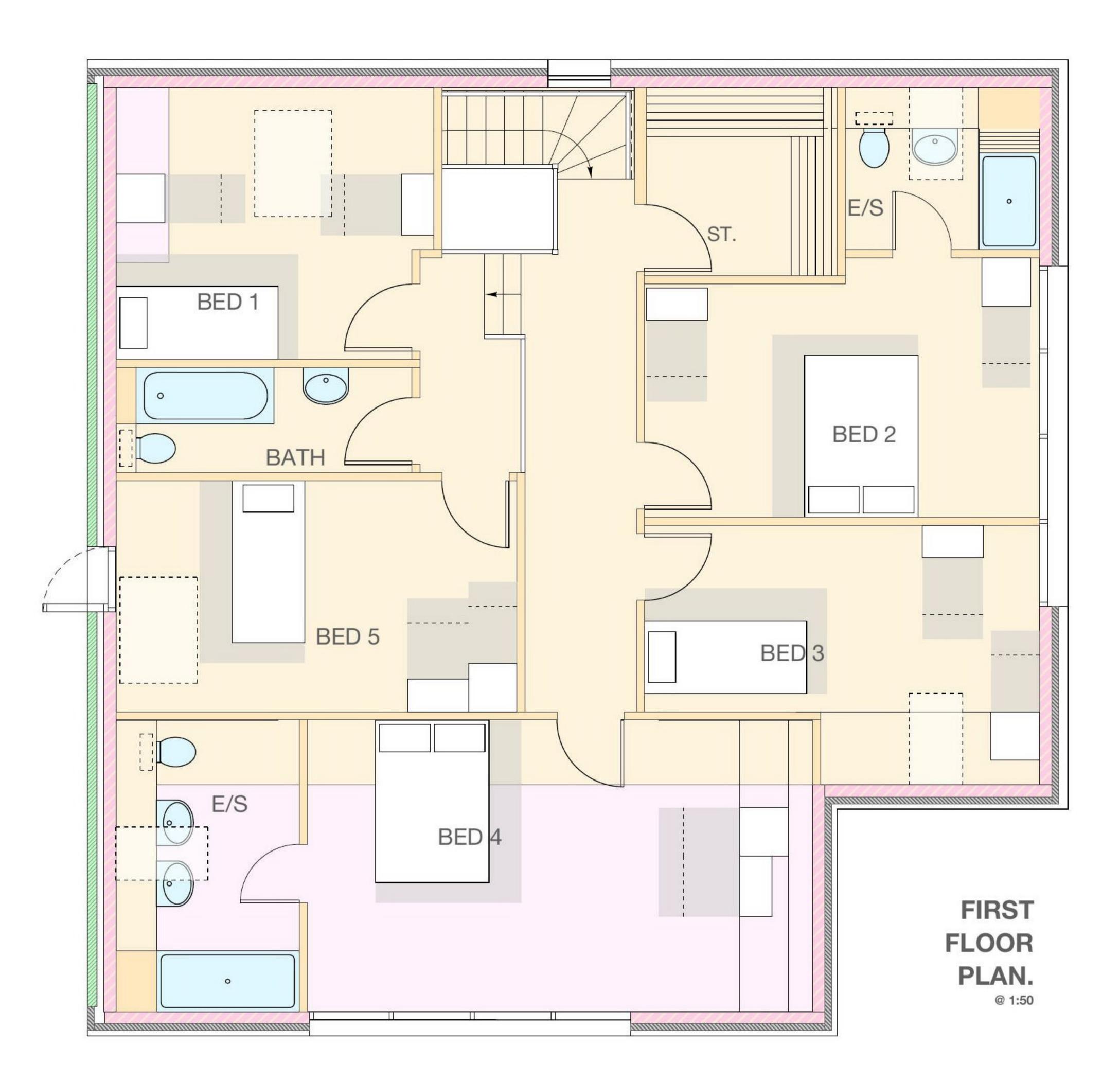


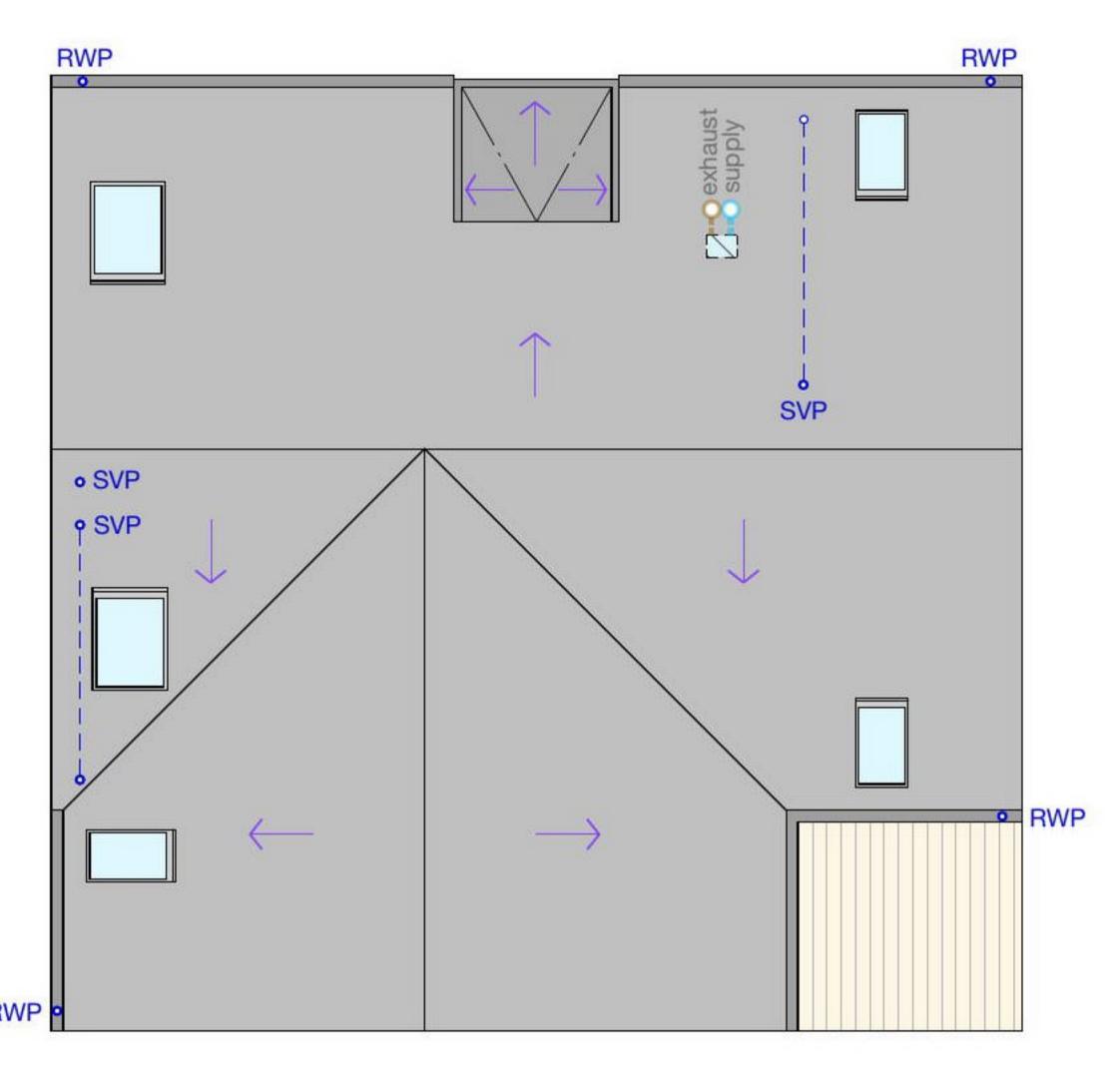
SOUTH ELEV. @ 1:100

1:100 0 1 2 3 4 5 10 m

House Type 3





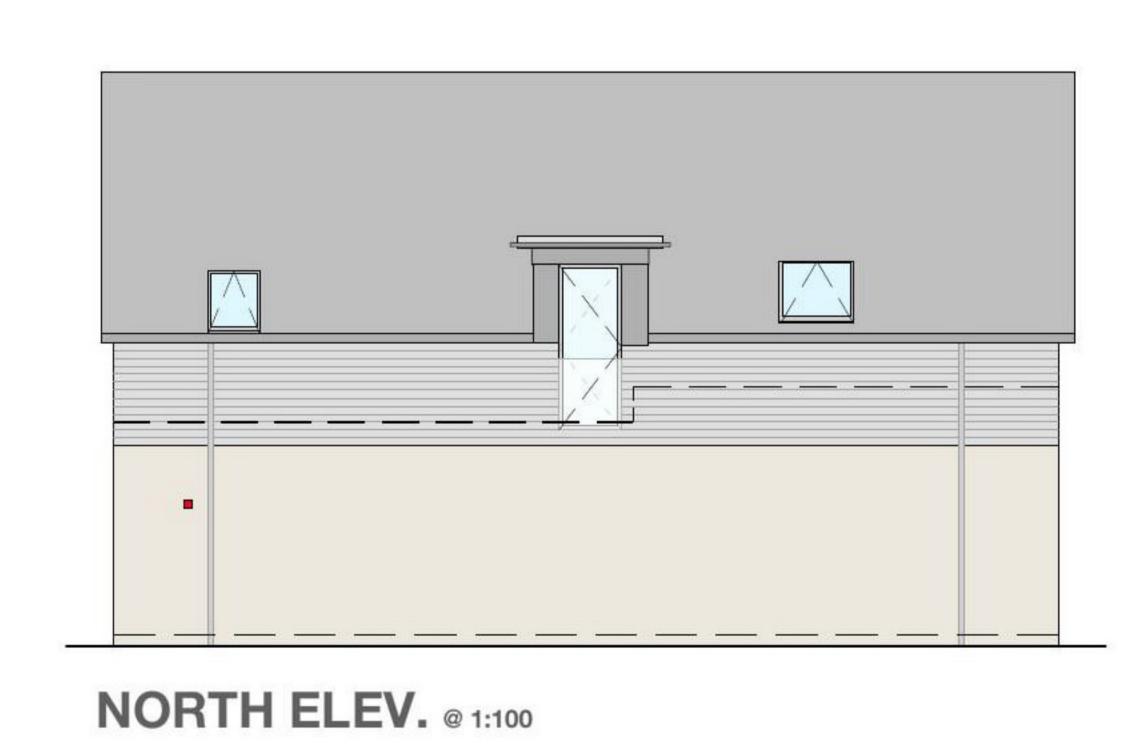


ROOF PLAN. @ 1:100





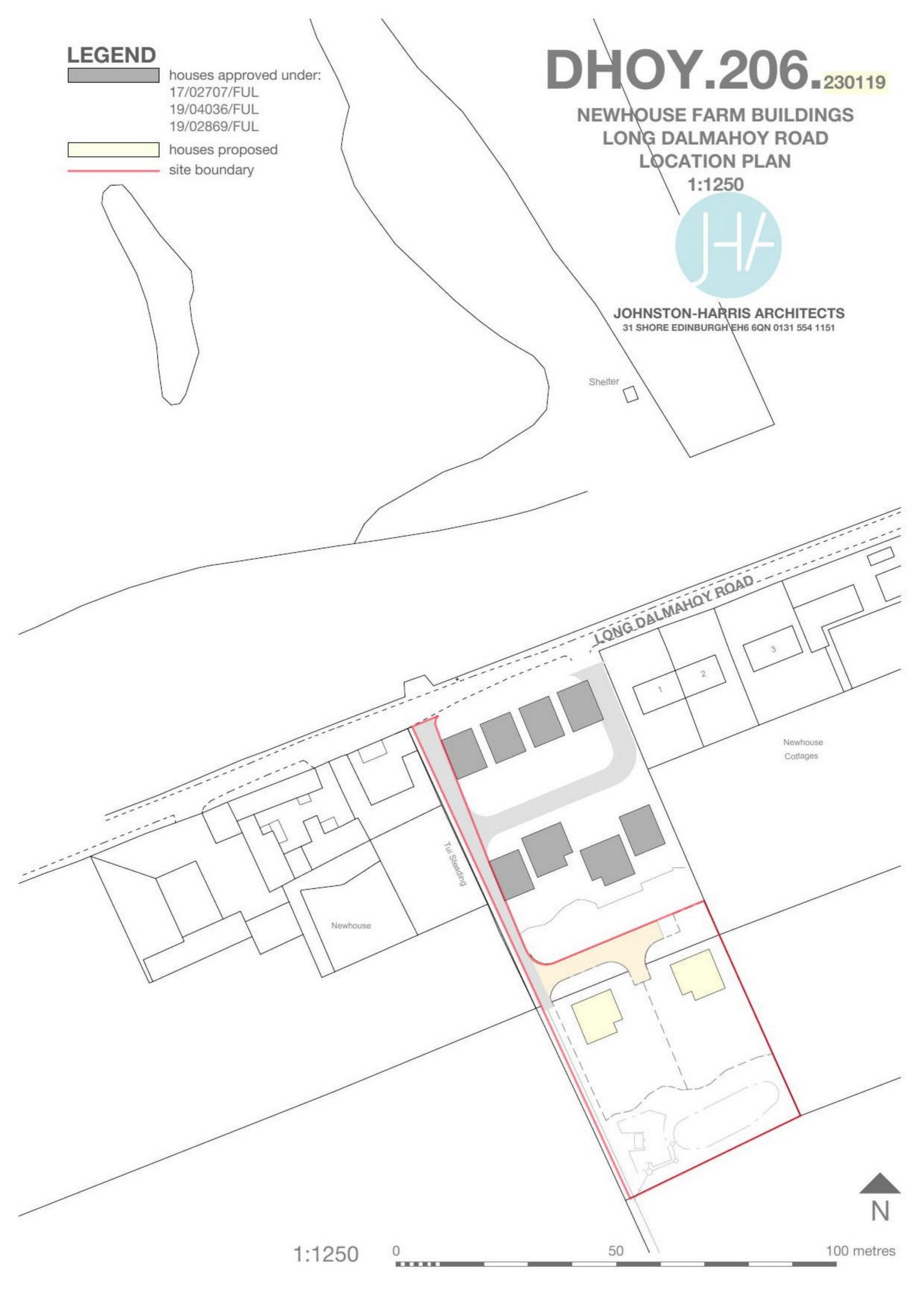


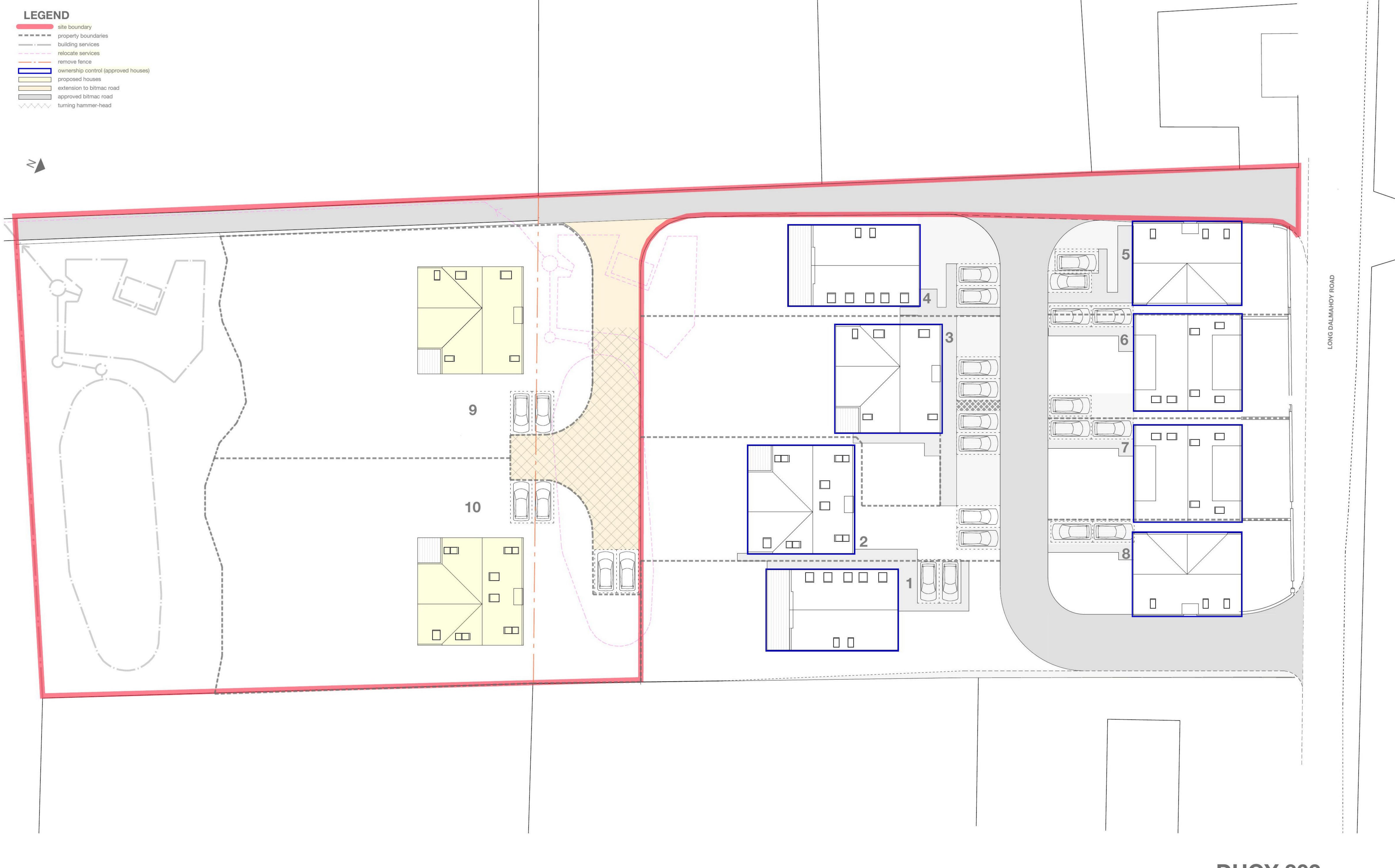






SOUTH ELEV. @ 1:100





DHOY.302.230119

NEWHOUSE FARM BUILDINGS LONG DALMAHOY ROAD SITE LAYOUT 1:200 @ A1



1:200 ⁰ 10 20 metres