

Agenda Item	6.4
Report No	PLS/069/18

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 18 September 2018
Report Title: 18/03023/FUL: Mr Allan Henderson
Land 35M West of Sealladh Na Gleann, Culloden Moor, Inverness
Report By: Area Planning Manager – South/Major Developments

Purpose/Executive Summary

Description: Erection of detached house and garage, formation of access and associated services
Ward: 19 Inverness South
Development category: Local

Reason referred to Committee: Number of objections received

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission as set out in section 11 of the report.

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Historic Environment Team:** No objection. The proposed development lies within the Culloden Battlefield as identified within the Culloden Muir Conservation Area and the Inventory Battlefield. The wider battlefield may still contain buried remains relating to the battle, including the build up and the aftermath. It is considered that a metal-detecting survey is required to allow an assessment of the archaeological potential and content of the topsoil. A condition is requested that requires the development area to be subject to a metal-detecting survey and dependent of the results of this work, further study may be required in advance of, and during, construction works. The work will be backed up by desk-based research to produce a report setting out the results and any required mitigation strategy. The applicant will need to engage the services of a professional archaeological contractor.
- 5.2 **Historic Environment Scotland:** The proposed development area is currently open ground on the edge of a large agricultural field. It would infill a gap in a band of linear development within Leanach. The design and height of the proposed house would be in keeping with the neighbouring houses. The proposed development would be visible from sensitive locations in the battlefield, for example, the National Trust for Scotland visitor centre and car park. It would change the character of the affected ground from open to residential development. However, because it would be a single house that would infill a gap in an existing linear settlement the degree of change to the overall character of this part of the battlefield would be minor. It would not reduce the ability to appreciate the upper slopes of the valley of Nairn, which formed a backdrop to the battle, to a significant degree. Further residential development in this area does have the potential to cumulatively erode the landscape characteristics of the battlefield. However this proposed development is the final plot in a band of three granted outline planning permission in 2006 and would not significantly increase the cumulative impact of the two existing plots. The proposed development would include ground disturbance that may affect archaeological remains related to the battle. This should be assessed at an early stage so that any remains can be appropriately dealt with. The proposal does not raise historic environment issues of national significance and therefore HES does not object. However the decision not to object should not be taken as support for the proposal.
- 5.3 **National Trust for Scotland:** Recommends against the application and objects to the development. The National Trust for Scotland is a close neighbour to the proposed development and the guardian of the core battlefield area of Culloden. The battlefield is currently being threatened by new development from all sides. Due to this level of encroachment it is felt that previous concerns relating to the slow erosion of the battlefield are coming to fruition extremely quickly and must now be addressed by the planning process. NTS has two main concerns: the impact of the proposed development on a protected area and the potential for development creep and the precedent that such a development could set. The proposed development constitutes encroachment into the battlefield environment, closing off views, increasing density and effectively formalising a pattern of linear

development extending south from the crossroads and opening up the likelihood of further applications to the immediate south. Opening up views of the wider battlefield, within the bounds of the Conservation Agreement, is considered a highly desirable objective for the future in order to improve orientation within the landscape. This development has scope to significantly detract from that aspiration and the improving experience it can offer future generations as we learn more about the battle and associated history. This and other recent applications represent an important test for the planning process and the value it attributes to its own Conservation Area.

- 5.4 **Scottish Water:** No objection. There is currently sufficient capacity in the Inverness Water Treatment Works. Scottish Water is unable to reserve capacity at water treatment works. There is no waste water infrastructure within the vicinity of this proposed development therefore the applicant is advised to investigate private treatment options. Scottish Water also advises that a water main runs through the site boundary and the applicant will need to contact them.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality & Place-making
35 - Housing in the Countryside (Hinterland Areas)
57 - Natural, Built & Cultural Heritage
65 - Waste Water Treatment
66 - Surface Water Drainage

6.2 Inner Moray Firth Local Development Plan 2015

No specific policies apply.

6.3 Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)
Developer Contributions (March 2013)
Highland Historic Environment Strategy (Jan 2013)
Housing in the Countryside and Siting and Design (March 2013 (updated 2016))
Standards for Archaeological Work (March 2012)
Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL CONSIDERATIONS

- 7.1 Culloden Muir Conservation Area: Character Appraisal and Management Plan (November 2015)

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (2014)

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) Planning history
 - c) Siting and Design
 - d) Proximity to Culloden Battlefield/ Culloden Muir Conservation Area
 - e) Archaeology
 - f) Drainage and Infrastructure
 - g) any other material considerations.

Development plan/other planning policy

- 8.4 The site sits within the Hinterland of Inverness therefore the Council's Housing in the Countryside policy (Policy 35) applies. This presumes against housing development within the hinterland unless it can be demonstrated that it meets one of the exceptions to the policy as set out in the Council's Housing in the Countryside Siting and Design Supplementary Guidance. One such exception to the policy is that it is an acceptable expansion of a housing group.
- 8.5 A housing group is defined in the Supplementary Guidance as being: at least three houses that are physically detached from one another; the houses must have a perceptible relationship with one another and share a well-defined, cohesive character; and the houses must not comprise part of a 'small settlement' as may be defined in the applicable Local Development Plan.
- 8.6 Scottish Planning Policy requires that: "Planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields." The site sits on open ground on the edge of a large agricultural field and would infill a gap in a band of linear development within Leanach.
- 8.7 On the basis that the proposal meets the criteria as an acceptable expansion of a housing group; would demonstrate sensitive siting and design; would not have significant detrimental effect on individual and community residential amenity; would not adversely impact on the cultural heritage of the area, or have an

unacceptable impact upon existing infrastructure then the proposal could comply with the development plan.

Planning History

- 8.8 Notwithstanding the assessment of planning policy contained above, the proposed house is located in the middle of a development of three house plots that was granted outline planning permission in 2006 (02/00595/OUTIN). The principle of the development has already been accepted. The house on Plot 1, to the north, was granted permission in 2009 (09/00232/FULIN) and the erection of a house on Plot 3, to the south, was granted permission in 2013 (13/03135/FUL). The planning history is a strong material consideration to the determination of this application.

Siting and Design

- 8.9 The site sits within a housing group at Leanach crossroads. The houses here share a well-defined and cohesive character and can therefore be considered to be a housing group under the terms of the policy. The proposal would infill a gap site within the group and can therefore be capable of meeting the policy requirements subject to specific design considerations.
- 8.10 The outline consent granted in 2006 (02/00595/OUTIN) restricted houses to single storey (with attic accommodation and Velux roof lights if required). The proposed house is single storey with a ridge height of 5.5 metres, reflecting the design and character of the existing housing within the group. Materials are white/off-white roughcast, the roof is natural slate and the windows, doors and rainwater goods are grey uPVC. The traditional cottages at Leanach are rendered or harled and painted white. Traditionally these would have been off-white. The design and height of the proposed house would be in keeping with neighbouring houses.

Culloden Battlefield/Culloden Muir Conservation Area

- 8.11 Culloden is one of the most important battle sites in the history of the British Isles and as such has international significance. The area designated within the Inventory of Historic Battlefields defines the area in which the main events of the battle are considered to have taken place and where physical and archaeological evidence is likely to survive. The core area, where the two opposing forces were arrayed on the day of the battle, lies at the centre of the battlefield area, largely on ground owned by the National Trust for Scotland. The B9006 bisects the battlefield. The proposed development is located within the Inventory Battlefield. The Culloden Muir Conservation Area boundary was extended in 2015; this brought the proposed site within the Conservation Area boundary. Within the Conservation Area document Leanach is referred to as a traditional small settlement at the crossroads.
- 8.12 Concerns have been raised about the proposed development being another example of encroachment into the battlefield environment. However this proposed development is not sitting on its own; it is effectively filling a gap site in an established housing group.
- 8.13 The visual impact of the proposal must be considered in this context. It would be visible from sensitive locations in the battlefield area and it would change the

character of the affected ground from open to residential development. However, because it would be a single house in an infill gap in an existing linear pattern of development, the degree of change to the overall character of this part of the battlefield is considered to be minor. It is not considered to reduce the ability to appreciate the upper slopes of the Nairn Valley to any significant degree. The Battlefield and the surrounding Conservation Area are acknowledged as important tourism attractions which are important for the local economy. However the development will have no significant impact on the overall character of the landscape and therefore should have no impact on tourism.

- 8.14 Representations raised the matter of the moral principle of building on an area of such historic significance. The proposed development site is in the southeast part of the battlefield and it is likely to have been within agricultural land rather than open moor at the time of the engagement and to the south and east of where the Government army drew up. It is not likely to have been within one of the main areas of fighting.

Archaeology

- 8.15 Concerns have been raised about the potential for archaeological remains on site. There is a high likelihood that the proposed site may contain buried remains relating to the battle, including the build-up and the aftermath. The Council's Historic Environment Team had requested that a metal detecting survey be completed and in the event that planning permission was granted, a condition would be added requiring the development area to be subject to a metal-detecting survey and dependent of the results of this work, further study may be required in advance of, and during, construction works. Subsequent to this, the applicant has submitted a report on a metal-detecting survey of the site. The Council's Historic Environment Team has confirmed that the results of the survey confirm that no further work is now required and that the condition as originally proposed could be considered fulfilled. Therefore no condition will be added.

Drainage & Infrastructure

- 8.16 The proposed development site does not have access to a connection to the public sewer. The applicant is proposing a private sewerage system with discharge to land via soakaways. The land around Leanach is known to have poor drainage. The proposed soakaways are shown out with the red line boundary of the site. However the applicant has provided evidence that they have servitude rights for the installation and maintenance of a soakaway system on the land directly behind the site. The technical details of the soakaways are dealt with at Building Warrant stage.
- 8.17 There are no concerns regarding water supply or the ability of the road network to accommodate the proposed house. Standard access and service bays for single houses will need to be provided. This can be controlled by condition.

Other material considerations

- 8.18 There are no additional material considerations.

Non-material considerations

- 8.19 There are no non-material considerations.

Matters to be secured by Section 75 Agreement

- 8.20 None

9. CONCLUSION

- 9.1 The proposed development sits within the Hinterland of Inverness where there is a general presumption against housing development unless it can be demonstrated that it meets one of the exceptions to the policy as set out in the Council's Housing in the Countryside Siting and Design Guidance. One such exception to the policy is the acceptable expansion of a housing group. The proposed site sits within Leanach where there are more than 3 houses physically detached from each and sharing a well-defined and cohesive character. Leanach can therefore be considered to be a housing group under the terms of the policy.
- 9.2 Once it is accepted that Leanach is a housing group, it must be considered if the proposed site is sited appropriately within the group. The proposed development is the final plot in a band of three granted outline planning permission in 2006 (02/00595/OUTIN). The proposed development area is referred to as Plot 2 and lies in the middle of the three plots. The erection of a house on plot 1, to the north, was granted permission in 2009 (09/00232/FULIN) and the erection of a house on plot 3, to the south, was granted permission in 2013 (13/03135/FUL). The proposed development would effectively fill a gap along an existing linear pattern of housing development and would not significantly increase the cumulative impact of the two existing plots. The design and height of the proposed house is in keeping with neighbouring houses.
- 9.3 Concerns have been raised about the proposed development being another example of encroachment into the battlefield environment and that it is contrary to the Culloden Muir Conservation Area. The area is currently open ground on the edge of a large agricultural field. It would change the character of the site from being open ground to residential development. However as it is a single house that would infill a gap the degree of change to the overall character of this part of the battlefield would be minor.
- 9.4 It is considered unlikely that this proposed development, within an infill site in an existing housing group, will have any significant impact on the either Battlefield site or the Culloden Muir Conservation Area.
- 9.5 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following:

Conditions and Reasons

1. The house for which planning permission is hereby approved shall not be occupied unless the means by which foulwater drainage is to be accommodated on site has been installed and completed to the satisfaction of the Planning Authority and thereafter so maintained. No work will commence on site unless and until such details are submitted to and approved in writing by the Planning Authority and thereafter so installed.

Reason: In the interests of public health.

2. The house for which planning permission is hereby approved shall not be occupied unless the surface water drainage associated with the development including areas of hardstanding and the driveway, is installed and completed to the satisfaction of the Planning Authority and in accordance with SEPA's guidelines on SUDS. There shall be no COMMENCEMENT of this development until such details are submitted to and approved in writing by the Planning Authority.

Reason: In order to ensure that the site is properly and adequately drained.

3. No other development shall commence on site until the site access has been constructed in accordance with the Highland Council's Access to Single House and Small Housing Developments guidelines and to the satisfaction of the Planning Authority.

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

4. The provision for the parking and turning of two cars within the curtilage of the house shall be made prior to its occupation and shall be maintained at all times thereafter.

Reason: In the interests of road safety.

5. The house shall not be occupied until the boundary wall to the north of the site has been built in accordance with approved drawings and outwith the visibility splays.

Reason: In the interests of amenity and road safety

6. The house shall not be occupied until a suitable refuse bin collection point for the new property has been provided close to the public road but outwith the visibility splays.

Reason: In the interests of environmental health and road safety

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements

may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

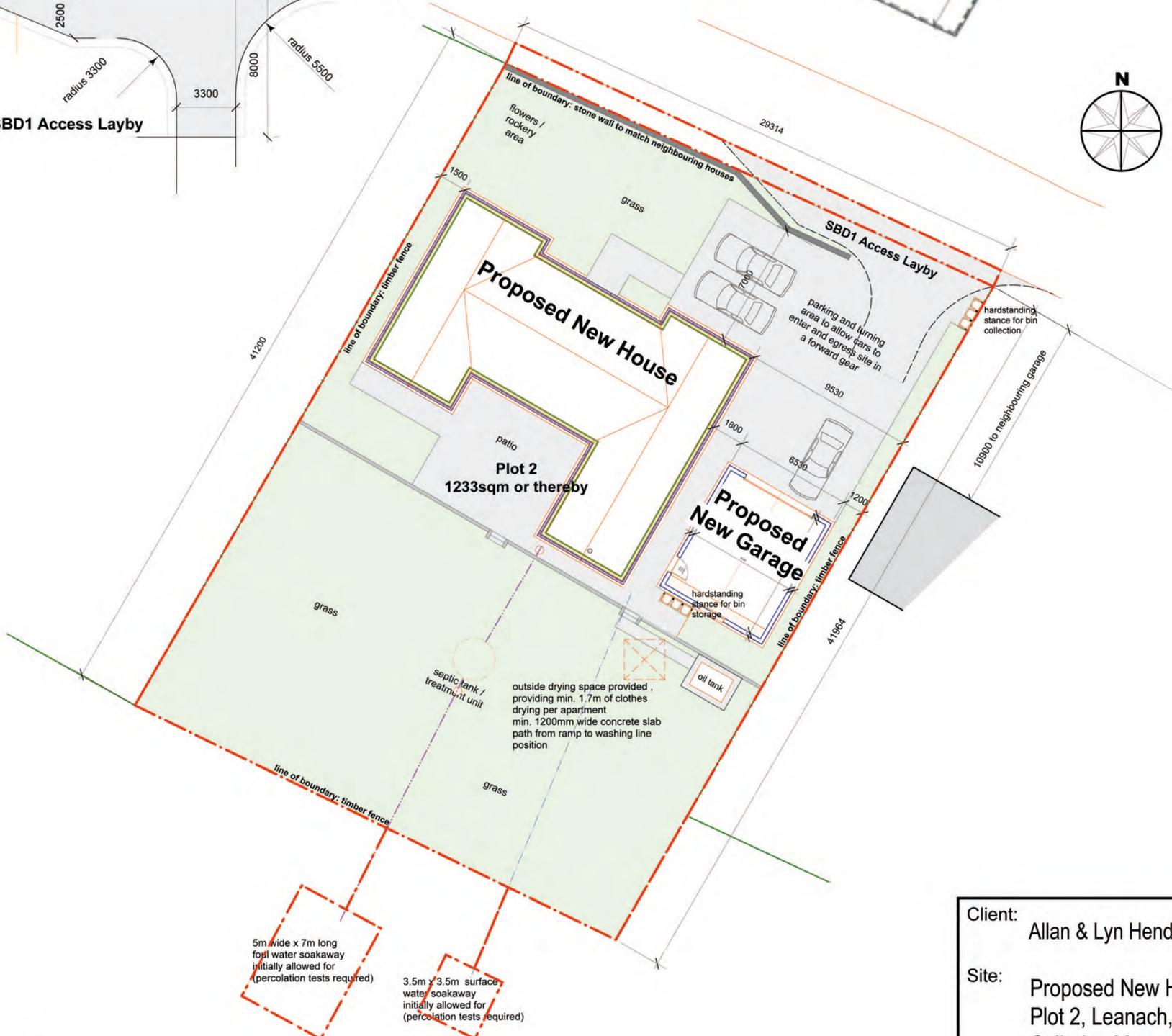
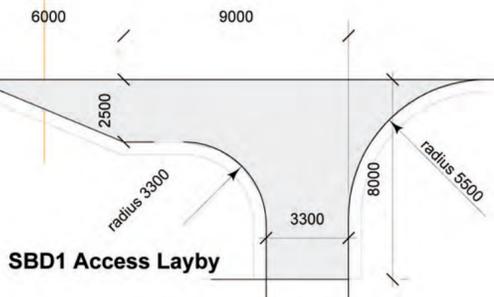
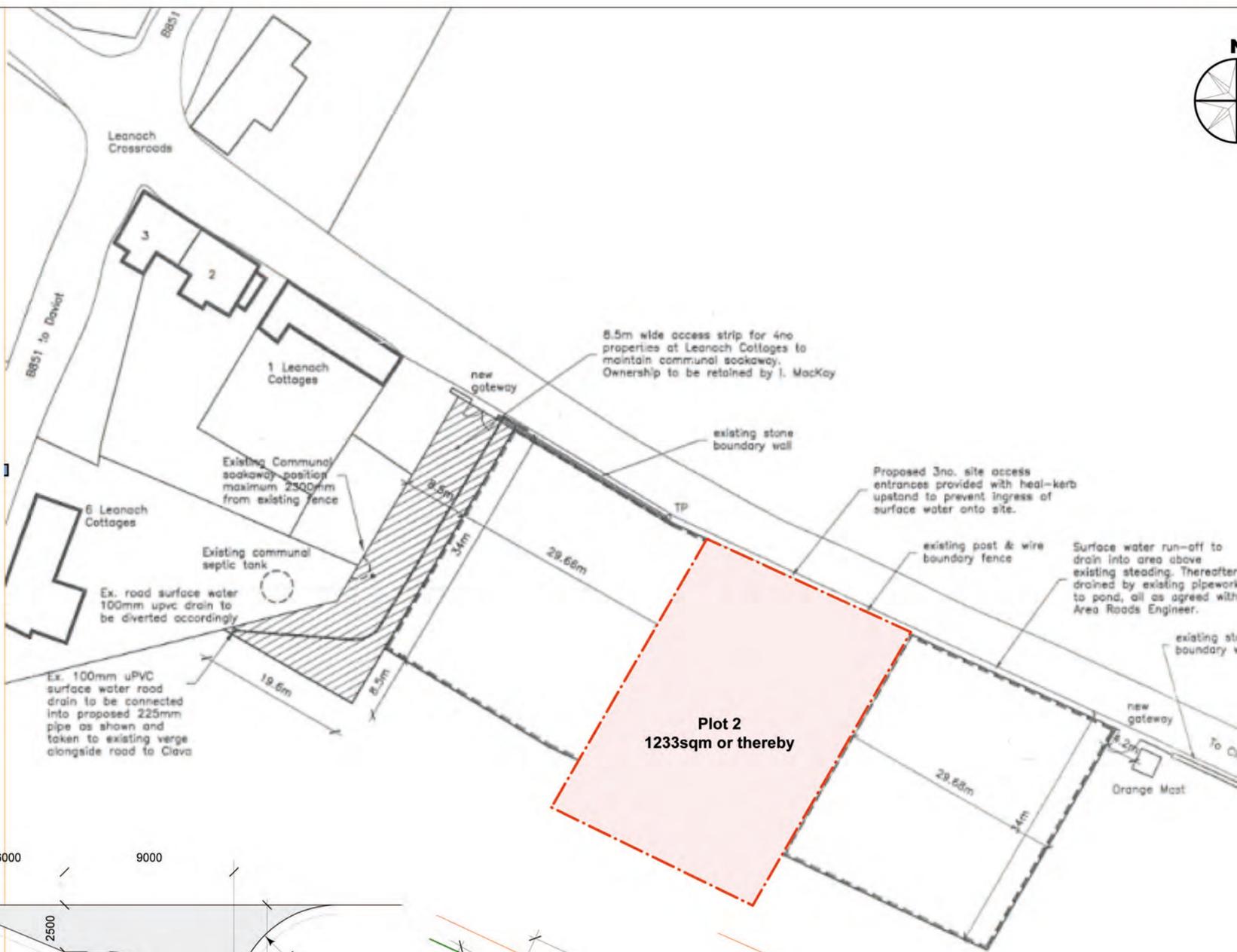
Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

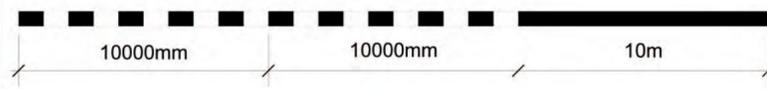
Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Julie-Ann Bain
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - 000001 Site Layout Plan
Plan 2 - 1222-01 IC REV B Location/site layout plan – Title plan
Plan 3 - SF27748.1.P1 REV A General plan – Proposed new house and garage



Site Plan (1:200 @ A2)



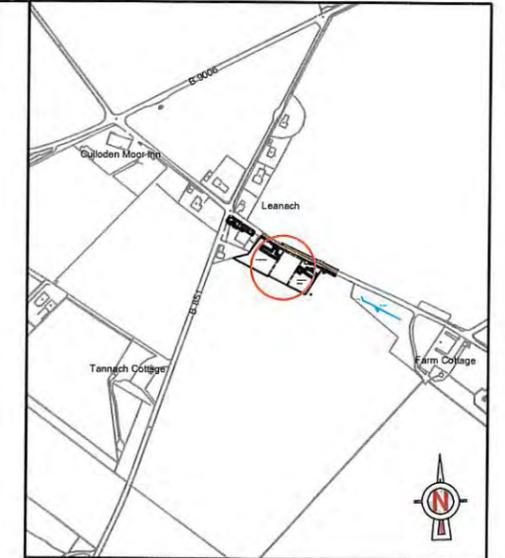
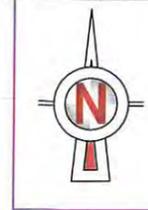
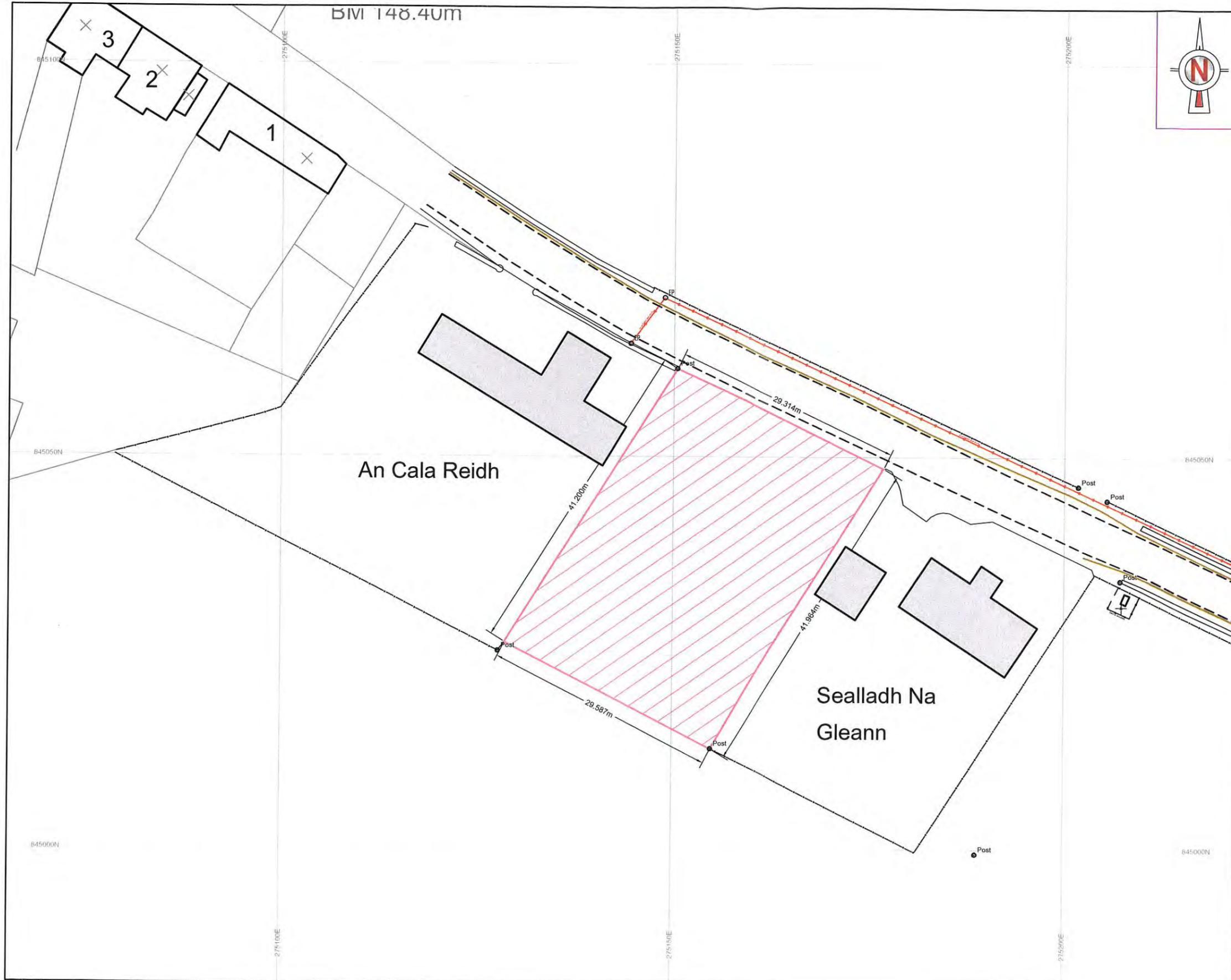
Client: Allan & Lyn Henderson

Site: Proposed New House & Garage
Plot 2, Leanach,
Culloden Moor,
Inverness

Site Plan (1:200 @ A2)

Property : Middle Plot, NW of Leanach Farm, Culloden Moor, Inverness, IV2 5EJ

(Scale 1 : 500)

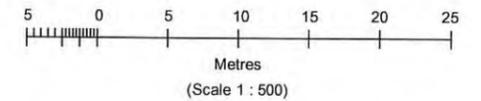


Location Plan
(Scale 1:10,000)

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Hatched Area = 1215.8 m²
0.300 acres

Centre Coordinate: 275152E 845036N

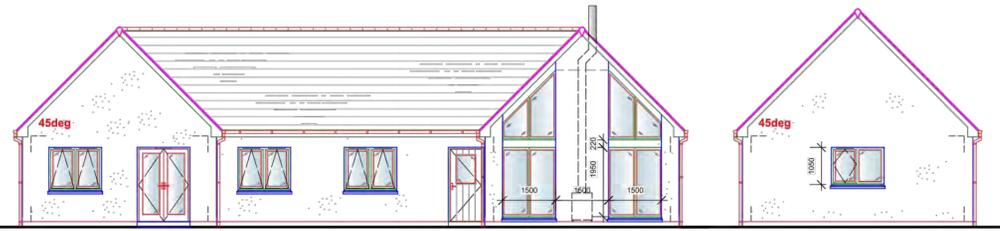
ARCHITECTURAL TECHNOLOGY
MRH design LTD

THE STUDIO
No 9
heights of Woodside
Westhill
Inverness IV25TH

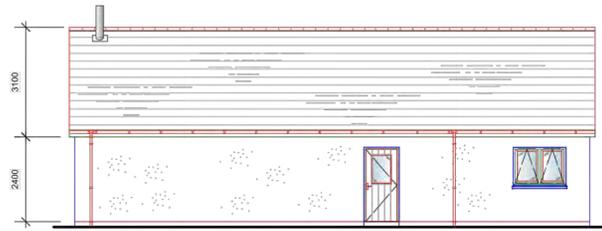
Tel/Fax: 01463 794410
Mobile: 07760 195141
Email: info@mrhdesign.co.uk
Web: www.mrhdesign.co.uk

TITLE PLAN

Property:	Mr Iain Mackay Leanach Farm Culloden Moor, Inverness, IV2 5EJ
Property Ref:	
Drawing No.	1222-01 IC Jun-18
Revision:	B
Prepared By:	Gordon Noble
Date:	12/06/2018



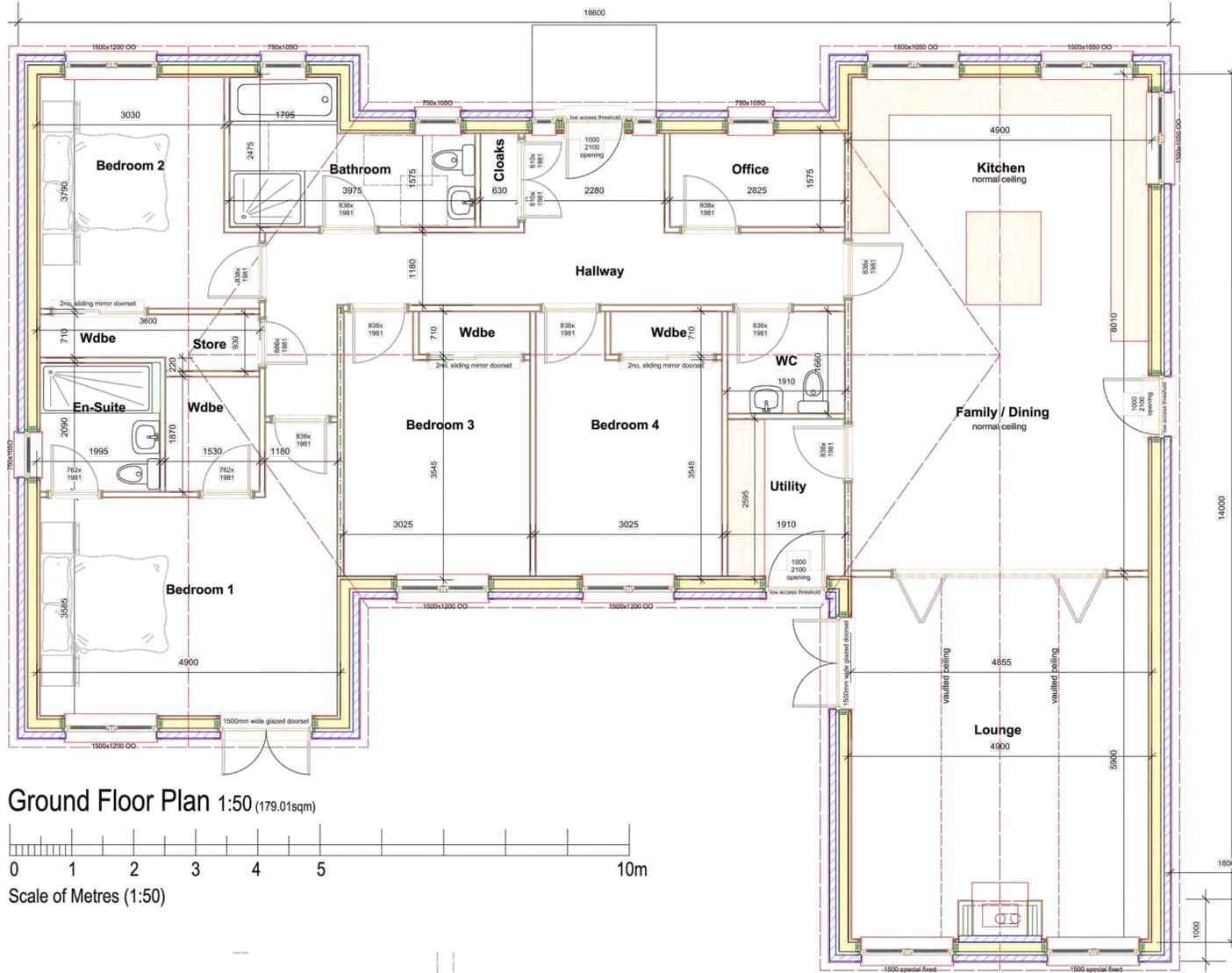
Rear / South-West Elevation 1:100



Side / South-East Elevation 1:100

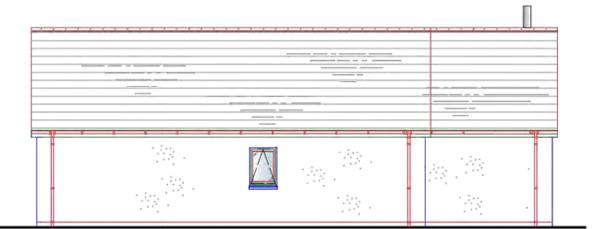
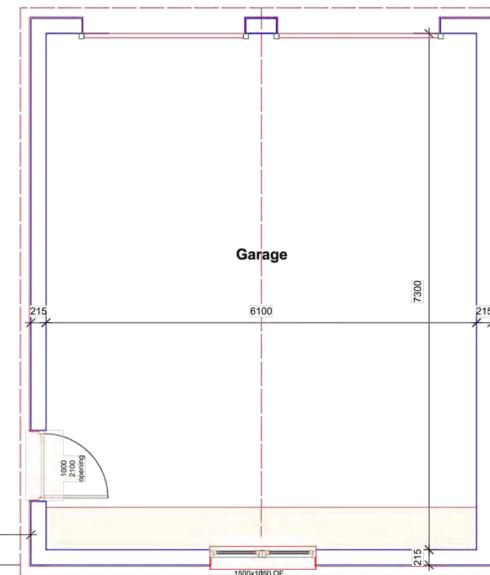


Front / North-East Elevation 1:100

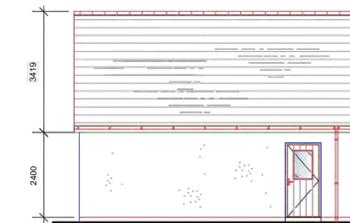


EXTERNAL FINISHES

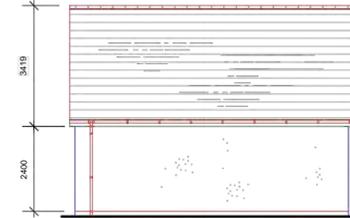
- Walls**- White / Off-White Roughcast
- Roof** - Natural Slate Roof Finish
- Windows & Doors** - Grey external / white internal uPVC
- Roofline**- Grey UPVC



Side / North-West Elevation 1:100



Garage Side / North-West Elevation 1:100



Garage Side / South-East Elevation 1:100



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Rev	Description	Date
A	Rear Lounge Wing Extended by 1m	19/06/18

Client: Allan & Lyn Henderson

Site: Proposed New House & Garage
Plot 2, Leanach,
Culloden Moor,
Inverness



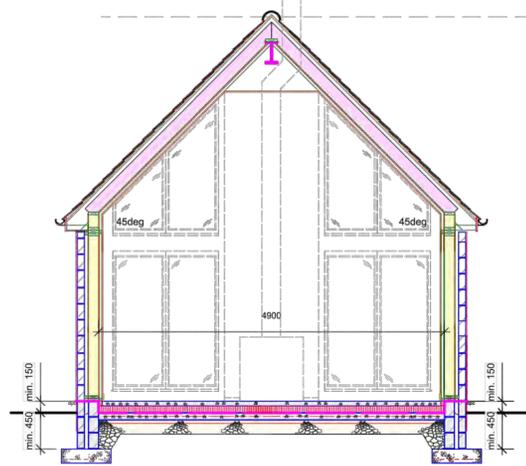
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E-MAIL: INVERURIE@SCOTFRAME.CO.UK

TEL: (01467) 62440
FAX: (01467) 62455

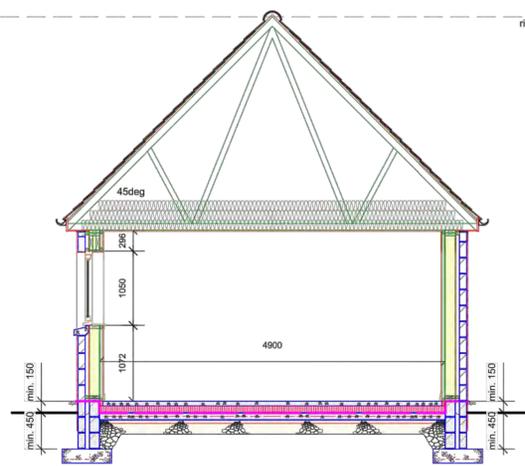
ALSO AT:-
4, GRAYSHIEL ROAD, WESTFIELD, CUMBERNAULD G68 9HQ
E-MAIL: CUMBERNAULD@SCOTFRAME.CO.UK

TEL: (01236) 861200
FAX: (01236) 861201

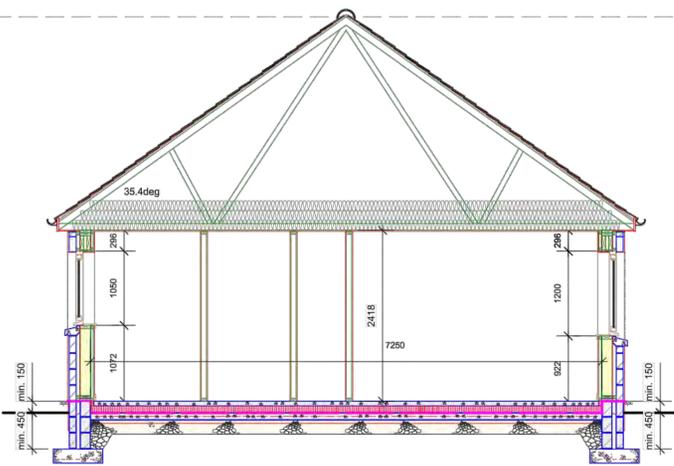
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