

Agent's Statement of Appeal

Introduction

This statement is intended to be brief and to reinforce certain key points as we believe that the application package itself i.e. the drawings and reports that were submitted as the original application in conjunction with the consultee responses from SEPA and the like thoroughly deal with all points subsequently cited by the planning officer in his refusal notice.

I have included a letter from the applicant regarding her personal circumstances and her feelings towards both the proposed dwelling and the application process. I hope that the review panel will understand the rather emotive nature of this correspondence and the fact that the opinions contained therein represent the personal feelings of someone directly affected by the refusal of this application.

I have also included a letter from the applicants husband where he raises a few other points that I feel are best conveyed by him rather than the agents.

At the core of this request for review is the belief that the planning department have been unduly harsh and negative when considering this application and have been lacking in transparency and communication during the process. As agents we have conducted this application with what we believe is the utmost thoroughness and professionalism. We started with a full digital topographical survey to give us very precise level information. We attended pre application meeting with the planning officer and the applicant and we seemed to establish the principle of development on this site. We commissioned a water supply and engineering report for a new private water supply; we proposed a BioDisc septic treatment facility and noted an outline SuDs drainage scheme. We designed a dwellinghouse in strict accordance with the published Argyll and Bute design guide and very carefully orientated it to take full advantage of the site's inspiring setting while still being visually unobtrusive and subservient to the natural context. We carefully monitored the progress of the application through the online Public Access system.

However we received almost no feedback or requests for information from the planning officer. We noted all of the statutory consultees return with no objections to the proposal and we waited patiently for the determination which we were very confident of receiving a positive outcome. We have completed many other successful applications for rural dwellings in this council area so had a basis of experience for our confidence. We were shocked by the subsequent indication that the recommendation was to be for a refusal.

Reason for Refusal 1: Settlement Character

1 Having regard to the siting and layout of the proposed dwellinghouse, in isolation to existing surrounding buildings, the development would not complement but be at variance with the existing settlement character with its particular layout and juxtaposed siting. The siting of the dwellinghouse on lower ground on the opposite side of the unsurfaced track (that contains existing buildings) would result in development that would be out of context and visually detrimental within surrounding farmland. Accordingly, such a dwellinghouse with its particular siting and requirements for land raising to avoid the functional floodplain of the Little Eachaig River would be contrary to the principles of sustainable development and of protecting and enhancing the quality of the environment within the Rural Opportunity Area, where there are more appropriate development opportunities. The proposal is considered to be contrary to, SPP 3: Planning for Housing; SPP 15: Planning for Rural Development; Policies STRAT SI 1, STRAT DC 4, STRAT HO 1 of the Argyll and Bute Structure Plan 2002; and to Policies LP ENV1, LP ENV19 and LP HOU1 of the Argyll and Bute Local Plan (August 2009) all of which presume against the nature of the development proposed.

The application for detailed planning permission on this site started with a pre application meeting with the planning officer where he conceded that the proposed location for the dwelling was "a site" and due to this the focus of the application documents was primarily on the design and orientation of the actual dwelling and the issues surrounding flooding. Therefore we did not expend a great deal of time seeking to justify the principle of actually placing a dwelling here in the first place as the overarching designation is that of a Rural Opportunity Area where there is a presumption in favour of development of this nature. However we wholly disagree with the planning officer's subsequent assertions that the proposals does not sit comfortably within the immediate settlement pattern and that it represents an unnatural expansion.

We feel that our proposed design will compliment and enhance the immediate area in the same way that the applicants work to rescue the existing steading enhanced the location. Now that the existing steading has been split into four separate dwellings they are beginning to assume their own separate identities, a process that will be accelerated and accentuated by quickly growing landscaping and boundaries that are being established. Over time this process will result in the steadings being viewed as a cluster in themselves rather than a singular building and the replacement of the large corrugated barn to the north and the redevelopment of the applicant's proposed site will ensure that Ballochyle will develop into a vibrant rural community. We do not feel that the planning officer is giving the long term strategic view the weight that it deserves.

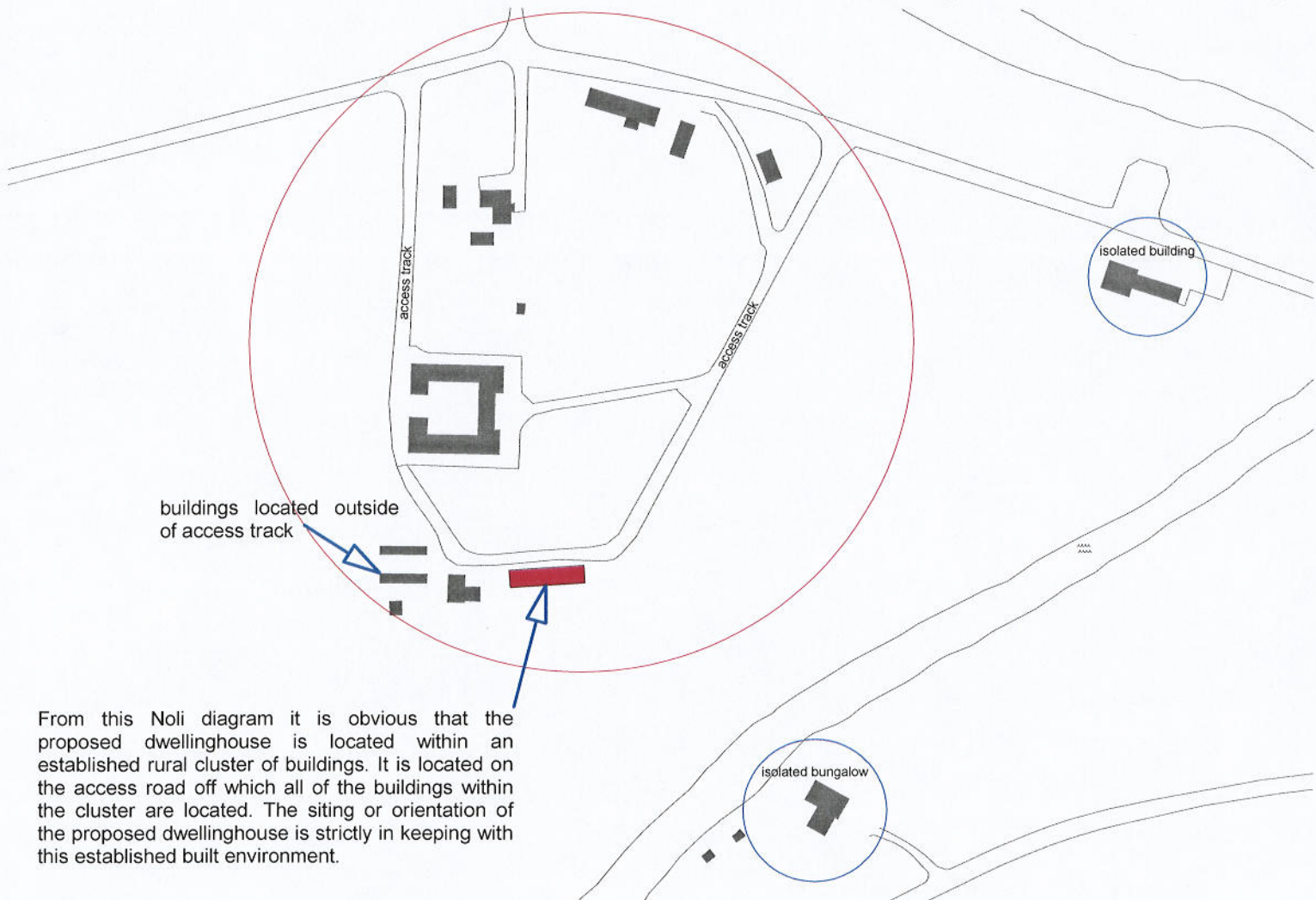
The vast majority of this Rural Opportunity Area is located either in the functional floodplain or within lands controlled by Mrs Kirsteen Manual, who has objected to every development proposal within the estate grounds and as such there is very little likelihood of there being any more proposed development in this location. This goes against the entire guiding principle of the Rural Opportunity Areas and is one of the prime reasons why it is so difficult for families to find suitable housing in this area. As detailed in the Benmore and Kilmun community action plan, the area is being drained of economically active people and young families are becoming a rarity.

The proposal is for a modern rural dwelling that displays traditional massing and detail and it is conceived as being subservient to its dominant neighbour; the existing courtyard steading building and subservient to its natural context. The proposed dwelling is unquestionably located within an existing building cluster as the diagram overleaf clearly demonstrates and the fact that there is an existing, albeit small building on the site of the proposed dwelling reinforces this. The contention that the development would result in an unnatural expansion of the existing group onto ground beyond the existing track is hard to reconcile with the fact that there are four existing agricultural buildings beyond the track and a detached bungalow located some 90m to the SE of the proposed dwelling.

Defining the landscape character of this cluster is very difficult as there is no coherent pattern of any sort. The cluster is made up of the restored steading courtyard that is oriented east to west. It has a rising driveway to the east that approaches what could be considered the front of the building; however there is a grand avenue of very tall cedar trees to what may be considered the rear of the building. As the building has now been split into four dwellings that access the building from different entrances its setting is much less defined. Other buildings in the cluster include four corrugated metal barns immediately adjacent to the proposed dwelling site, a large two storey corrugated barn, a large monopitch timber shed and a detached twentieth century two story dwelling that is distinctly suburban in setting and detail. This built context is hard to define and we do not feel that it deserves the elevated level of protection from "unnatural expansion" that it is receiving.



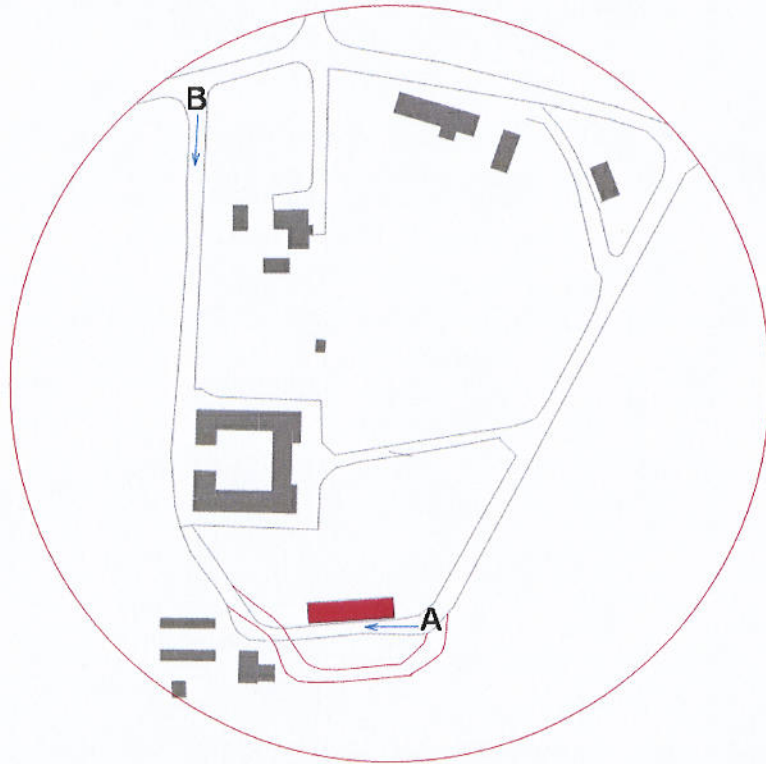
noli diagrams - contextual clustering



buildings located outside of access track

From this Noli diagram it is obvious that the proposed dwellinghouse is located within an established rural cluster of buildings. It is located on the access road off which all of the buildings within the cluster are located. The siting or orientation of the proposed dwellinghouse is strictly in keeping with this established built environment.

The existing access track that the planning officer is taking as a fixed reference point is actually owned by the applicant and although the applicant has a duty to provide unhindered access across it to other residents of the estate they are legal allowed to resurface, remodel and even reposition it as long as it maintains access from point A to point B on the diagram below. Therefore we can find ourselves in the ridiculous position of simply moving the track's position to ensure that the proposed dwelling is on what the planning officer appears to consider is the "correct" side of the track.



This is obviously not a serious suggestion but is shown here as an illustration at how arbitrary the access track is as a datum line to judge whether or not the proposal is in tune with the landscape or settlement character.

The small amount of land raising that is proposed (less than 800mm depth) seeks to elevate the building to a median position between that of the lower lying fields and the existing steading building. This land raising also allows the building to be directly accessed from the parking area, facilitating necessary level access for disabled visitors as per current building regulations.

The design ethos of the building and its orientation, detail and siting is covered in detail in the enclosed design report.

Conclusion

We feel that the judgment that this proposed dwelling does not respect the surrounding landscape or development pattern is incorrect and indeed is a very harsh assessment of what is a very carefully considered proposal, designed and developed in close conjunction with people who have lived on this site for years and are planning to continue to dwell here and raise their family here.

As a subjective reason for refusal the grounds cited concerning landscape character make it very difficult to wholly dismiss but we feel it is an unbalanced view point that does not weigh the demonstrable landscape qualities of the proposal. We do feel that the assertion that the proposal is contrary to the localized development pattern is demonstrably untrue and that there are few if any more suitable sites for development within this Rural Opportunity Area.

Reason for Refusal 2: Flooding Issues

.2. *The proposed development involves an element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located. The applicant has failed to demonstrate that the proposed dwellinghouse and its curtilage by reason of its siting and design within the functional floodplain of the Little Eachaig River would not be at significant risk from flooding. The lack of a detailed Flood Risk Assessment and submitted information and history of the site from flooding is contrary to Scottish Planning Policy SPP7 – Planning and Flooding; PAN 69: Planning and Building Standards Advice on Flooding; Policy STRAT S11(Sustainable Development); Policy STRAT DC10 (Flooding and Land Erosion) of the Argyll and Bute Structure Plan 2002; and policies LP ENV1, LP ENV19 and LP SERV 8 of the Argyll and Bute Local Plan all of which presume against the nature of the development proposed.*

Summary of the rebuttals of the above noted reason for refusal:

- The proposed dwelling is located outside the SEPA specified functional flood plan
- The proposed Land-Raising is less than 800mm and takes place outside the functional flood plan
- SEPA has offered no objections to the proposal with regards to flooding
- Argyll and Bute Council's Flood Alleviation Officer offered no objections to the proposal.
- Less than 20% of the large proposed garden area is within an area specified as medium/high risk of flooding
- Any land raising takes place outwith the functional floodplain.

The planning officer consulted SEPA twice on matters relating to flooding on this site and SEPA clearly and unequivocally states that: *"I can now confirm that this application has now been considered by our flood risk specialists. We have no objection to the proposed planning application on flood risk grounds"*

The planning authority also consulted its own Flood Risk and Drainage Impact Officer, Mr Ian Gilfillan who states that: *"In relation to flooding there are no objections if a finished floor level of 13.50 AOD is established"*

It is also relevant to include the following email communication from the applicant's agent to the planning officer:

From: AD Crawford [mailto:line-architecture@btconnect.com]
Sent: 26 October 2009 10:29
To: 'Close, Brian'
Subject: RE: 09/01308/PP - New House at Ballochyle

Brian

I notice that there is a correspondence from Ian Gilfillan at Blairvadach – stating that if the FFL are as specified then there is no issue regarding flooding. Is this the response you require or is there further consultation required from SEPA? I am enquiring specifically to this issue as we have Transtech standing by for a detailed Flood Risk Assessment should SEPA's response be either inconclusive or negative. This FRA will obviously take quite a bit of time to prepare and entail significant professional fees so my clients would obviously like to avoid commissioning it if it is not strictly necessary.

regards

Darran A Crawford BArch ARB
Architect

This was followed up with a telephone call specifically asking whether or not the applicants needed to supply a detailed flood risk assessment. We were told we did not need to and therefore find it difficult to understand the planning

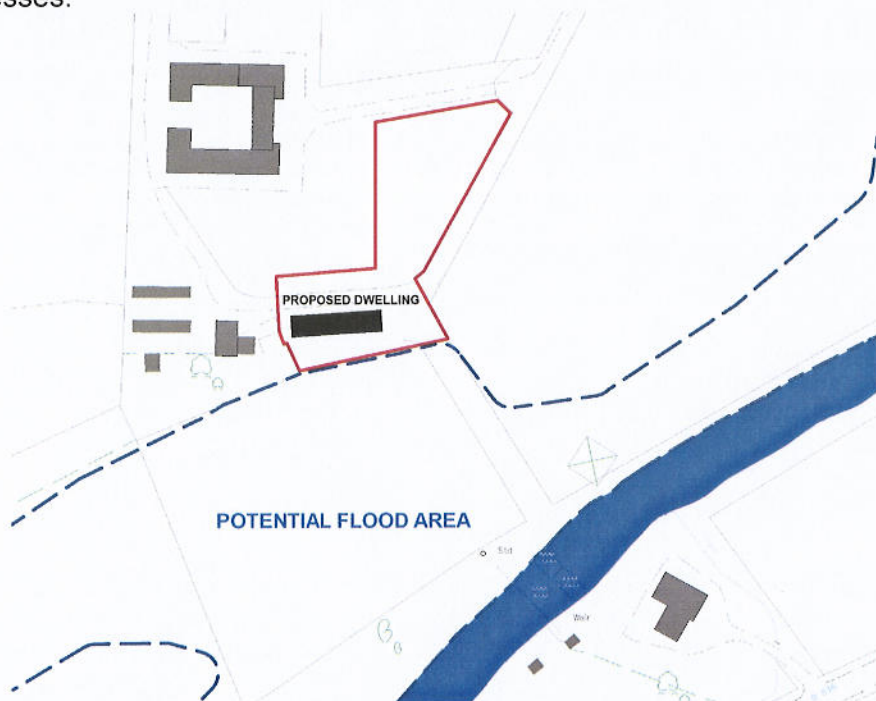
officer's subsequent claim that *"The lack of a detailed Flood Risk Assessment"* was a contributory factor in the refusal

Dwellinghouse Located Outwith Flood Area

None of the proposed dwellinghouse's footprint is located within the functional flood plain of the Little Eachaig River. This is born out by both the digital topographical survey data, the SEPA coastal and rivers flood plain map and all of the consultation responses from SEPA and the council's own Flood Risk and Drainage Impact Officer. This is not a matter for dispute as it is clearly demonstrable. Therefore it is extremely confusing as to why the planning officer states that: *"... element of land raising in order to avoid the functional flood plain of the Little Eachaig River in which the proposed development and a large proportion of its amenity space would be located."* This statement is inaccurate as the proposed dwellinghouse is outside the functional flood plain, this point has been raised by the applicant and agent repeatedly. This point is confirmed in SEPA's consultation response of 19th November 2009 where they clearly and unequivocally state that in paragraph 1.1 that *"It is noted that the dwellinghouse itself is adjacent to the Flood Map"*.

Amenity Space at Risk From Flooding

Cited documentation, specifically SPP7 makes no mention of any requirement to protect a proportion of amenity space from flooding. In fact it should also be noted that if the applicants were to merely redraw their red line boundary within the blue line boundary of their ownership no areas of the proposed dwelling, its amenity, access or any other related space would encroach on the functional flood plain. See below. This fact notwithstanding less than 20% of the application's current area encroaches on the functional flood plan and this area is designated on the proposed site plan as a "wild flower meadow" and would therefore retain any flood attenuation properties that it currently possesses.



Land Raising

The land raising of the proposed dwelling is minimal (less than 800mm) and is used to both provide an extra guarantee against any possible flood event as well as raising the finished floor level of the proposed dwelling house to the same level as the pedestrian and vehicular access for statutory regulations in regard to disabled access. The land raising is minimal and due to the fact that it is located outside the flood plain SPP7 and PAN69 guidance for land raising in flood areas is not relevant. Furthermore, based on SEPA's comment the level of land raising could in fact be reduced and it would still not constitute a flood risk.

Objector Evidence

The information supplied to the planning officer by Ms Kirsteen Manual, a local objector was and is demonstrably misleading and in specifics deliberately so. This fact was highlighted immediately to the planning officer by the applicant via the agent. However no steps were taken to subsequently verify the accuracy of this information and we are extremely surprised to see this information both referenced in the planning officer's report and cited at the time as a reason to gain a second consultation response from SEPA.

River levels

The 6 years that the applicants have lived at Ballochyle included both the wettest year on record (2009) and the wettest month on record (November 2006) during which time the Little Eachaig River has never burst its banks. Its highest level has been well below 11.5mOSD and it would need to rise by an incredible 3.25m above its usual average height to represent a danger to the proposed dwellinghouse. The recent SEPA works to the weir and gauging station have widened the riverbed, removed the concrete weir and heightened the banks, further reducing any risk from flooding. Therefore we would maintain that even though the field in which the proposed dwelling is located adjacent to is specified in SEPAs flood map as an area at medium to high risk of flooding, this event has never even nearly occurred during the applicant's ownership and even the most extraordinary flood event will not trouble the proposed dwellinghouse.



New weir/gauging station area

Interpretation of SEPA Flood Map

SEPA's statement that we as agents have made a "crude approximation" of the flood map is difficult to understand as the Flood Map itself is a crude approximation of gauging station data and the national digital elevation model (DEM). What this means is that there is no actual record of any parts of this site ever having flooded, this point is conceded by SEPA in an earlier consultation document for an earlier application on the same site (application reference 06/00472/DET, SEPA doc. Ref: AB3/2006/0728 "SEPA holds no record of the application site flooding"). The Flood map merely maps the DEM levels and correlates them with gauging station data. However we do not wish to labour this point as the simple fact remains; the proposed dwelling is outside the Flood map area and the topographical data for the site supports this.

Conclusion

We believe that we have more than demonstrated, with the help of statutory consultees and digital topographical data that the proposed development is free from any risk of flooding. The proposed dwellinghouse and over 80% of its curtilage is outside the flood plain and as such we feel that this reason for refusal is untenable.

Concerning transparency in planning procedure, we understood from the consultee responses that a detailed flood risk assessment was not required and contacted the planning officer to confirm this. Therefore we find it frustrating to subsequently find this requirement was added to the refusal reasons and at no time were we offered the opportunity to supply this information.

Reason for Refusal 3: Foul Drainage

3. The applicant has failed to provide accurate information in respect of foul drainage proposals for the application site. The lack of precise foul drainage arrangements is contrary to: policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems of the Argyll and Bute Local Plan (August 2009), which presume against the nature of the development proposed.

The submitted drawings for this project clearly mark the location and outline specification for a wastewater treatment facility. A BioDisc active treatment facility and sub surface percolation area is proposed, a specification considerably in excess of current Building Standard requirements. The proposed treatment plant's location is clearly marked to include topographical level data and at no point in this application process was any additional information requested regarding the subsequent post-decision statement regarding a lack of "accurate information".

There are both an existing, SEPA registered septic tank within 20m of the proposed septic tank and a new Bio Disc treatment system within 100m of the proposed development site; therefore it would seem reasonable to assume that there will be suitable ground conditions to facilitate the installation of a new Bio Disc treatment system as specified in this application. Further to this it would be the intention of the applicant to utilise the extra capacity of a new BioDisc system to handle the foul water from both Cottage 3 and 5, allowing the removal of the aforementioned existing septic tank serving these two properties however this is a matter for Building Standards and not Planning.

Additional to this Mrs Jo Rains, Area Environmental Health Manager for Bute and Cowal clearly states in her consultation response of 12th November 2009 that as far as environmental health is concerned the provisions of an acceptable septic treatment system is a matter for the building warrant phase of any project:

"It is further the intention of the applicant to effect a drainage system at the proposed development by way of provision of connection to an individual septic tank with a soakaway outfall. The system of drainage to be provided will require to be in accordance with the requirements of the relevant Building (Scotland) Acts and will be a matter for consideration by the Building Standards office."

We would agree with this statement and also like to again note the fact that at no point during this application process did the planning officer request any further information regarding the suitability of the ground for a private wastewater treatment facility despite repeated requests from us as to whether or not the planning department had sufficient information to determine this application.

The cited policy LP SERV 1 does not specify in any way what the level of detail required by applicants is, however it does make explicit reference to SEPA's preferred method of drainage, which is a sub surface percolation area – which we have specified. We feel that if the planning officer felt that the level

of detail provided was insufficient then it would have been good practice to let the applicant's agent know this.

Conclusion

We have specified on both the application drawings and the application forms that we are proposing a private waste water treatment facility. We have indicated on drawings where that facility was to be located and at what OS datum level that plant was to be placed at. We also clearly detailed on the drawings what operational type of treatment plant was proposed (a BioDisc) and what type of outfall was proposed (a subsurface percolation area as per SEPA preference). In our experience of applying for and gaining planning permission for dwellinghouses in Argyll in rural locations this is sufficient information. At no point during the application process did the planning officer request any other data; if he had we would have conducted a simple percolation test and offered a detailed specification from Klargestor, the treatment facilities manufacturer.

Environmental Health concur with our opinion that such information constitutes detail design and is therefore a Building Warrant issue and we are unable to explain why we were not asked for this information when it has subsequently been specified as a reason for refusal.

Therefore we believe that this reason for refusal is untenable.

Reason for Refusal 4: Storm Water Drainage

4 *The applicant has failed to provide accurate information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential flooding of the site and adjacent properties and their land is contrary to: Scottish Planning Policy SPP7 – 'Planning and Flooding' and PAN 69 'Planning and Building Standards Advice on Flooding'; Policies STRAT SI 1 'Sustainable Development' and STRAT DC10 'Flooding and Land Erosion' of the Argyll and Bute Structure Plan 2002; and policies LP SERV 2 – Sustainable Drainage Systems (SuDS), LP SERV 3 'Drainage Impact Assessment' and LP SERV 8 'Flooding and Land Erosion' of the Argyll and Bute Local Plan (August 2009), all of which presume against the nature of the development proposed.*

As with the previous reason for refusal there is a requirement stated here for an unspecified level of precision information that was never requested by the planning officer, despite repeated requests from us as to whether or not the planning officer had sufficient details to determine the application.

We would again contend that this is a matter for building standards and Mr Ian Gilfillan, Flood Risk and Drainage Impact Officer makes no reference to the requirement for a detailed SuDs drainage design in his consultation response, neither does SEPA.

However we did indicated in drawing no. 0704/DPP/006 Rev A a SuDs drainage system to incorporate storm water soakaways. This is clearly indicated and whilst not at this stage providing precise details of the drainage specification, experience tell us this level of detail is usually sufficient for determining a planning application and that detailed drainage design is handled by a certified engineer at the subsequent building warrant phase.

It should be noted at this stage that this development is for a single private house contained within an area of land controlled by the applicant extending to over 2 acres. It is therefore reasonable to assume that a SuDs drainage system in this case is likely to consist of simple solutions such as a filter trench, separate land soakaways or sub surface sumps.

The applicant has expressed a desire for a grey water recycling system to take advantage of the high levels of rainfall in the area; however this has not been specified at this stage as it is a complex piece of detailed design and usually has no bearing on the planning process. As with foul water drainage, this is a matter for detailed drainage design at the Building Warrant stage.

Conclusion

As with reason for refusal 3, this is, in our opinion a spurious reason for refusal based on the fact that we were never asked for detailed SuDs data, notwithstanding this we did in fact show a SuDs drainage plan on the application and this level of information is, in our experience more than sufficient drainage data for the planning stage and any detailed drainage data is a matter for Building Warrant.

Appendix

Letters from Applicants

Cottage 3
Ballochyle Estate
Sandbank
Dunoon
PA23 8RD

Linearchitecture
1-1
37 Kersland Street
Glasgow
G12 8BP

21st April 2010

Dear Darran

I am writing concerning the appeal in progress re the application for planning at Ballochyle Farm, Sandbank, Dunoon. As you aware my wife has written a letter personally setting out the history of the site and addressing some of the issues including the objections concerned and the work which has been carried out in respect of the steadings and the conversion costs etc. I therefore do not intend to dwell on these or go over this ground again as I am sure my wife has been succinct in her points and has covered them in their entirety. I will merely add what I can in respect of the involvement which I have had in the process of the application (apart from the obvious financial input which I believe is unavoidable and necessary in these matters) and to try and give a view of how I see the development of the site.

As you are aware, both you and I met with Brian Close of Argyll and Bute Council planning department on my insistence as part of the planning process to ascertain what their position was in respect to the new planning application we were to submit. This was to clear up mainly in my mind the actual viability of the application- i.e. was it viewed as an actual "no hope" case or were there merits in continuing with the process considering both the financial and time constraints on all parties, not least the planners. On discussing the site and the application in general Mr Close did indeed indicate that he "conceded that it was a site" albeit that there would have to be some changes to the design-these seemed fairly minor in nature, such as the chimney seemed too large in dimension to the house etc. There was however a general consensus that the application was acceptable in principle this time and that the proposed dwelling was more in keeping with both the site and the surroundings than the previously refused proposed dwelling.

I say this with the full knowledge of being a Notary Public and a Solicitor and with the responsibilities which are incumbent upon me with those posts by the Law Society and was very disappointed to note thereafter that Mr Close seemed to distance himself from this position and indicated that he believed the proposal had no merits and that in fact there was not a natural site there for a dwelling. I would have appreciated a

little more candour in the meeting if only to save myself further expense and this was also represented in the matter as to whether there was a requirement for a Flood Risk Assessment. As you know I have a particular interest in this field which I shall come to later in this note, however suffice to say I am well aware of the requirements to promote the River Basin Management Planning currently being undertaken by the Scottish Executive and implemented in the main by SEPA and to the importance of the designated responsible authorities (planners are one of these) to consider flood management and sustainable development in granting permission.

Ballochyle falls within the Scottish River Management Basin and as such there is a duty incumbent upon all the local authorities and SEPA to promote the implementation of the aims of the Water Framework Directive (WFD) through the Water Environment and Water Services (Scotland) Act 2003. Ballochyle has had a history of mismanagement in respect of the water resources which it has utilised and currently relies too heavily on a stretched private supply which runs from the hill and which has difficulty in meeting the requirements of the households and indeed the aims of the WFD. The water quality being delivered to the households has failed several times in the past as indeed has the supply due to a piping infrastructure badly in need of an overhaul. This has occurred in the main due to a lack of funding being apparent in the running of the estate by the original owners being James and Kirsteen Manuel and the selling off of various parts of said estate (including the steadings which I converted) to facilitate the survival of the same. This process has led quite inevitably to the disintegration of the infrastructural soundness of the estate as a whole and to the same in respect of the services which it delivers.

As part of the proposed development we are proposing to use an alternative resource for water supply i.e. the Little Eachaig River, which will provide both the house in question with a new and better quality supply along with a supply (potentially), to other houses in the estate. This is both sustainable and finds a balance between environmental objectives and social and economic concerns in the discharge of the public bodies normal duties if planning were to be granted, i.e. one of the key criteria outlined in the Policy Statement and Regulatory Impact Assessment addressed to Local Authorities by the Scottish Executive in March 2006. We are also willing to utilise a grey water collection system for flushing and washing using the substantial rainfall in the area as the resource for this. Again this falls within sustainability and environmental impact as outlined above.

In respect of the flooding concerns it is my understanding that SEPA do not think that there is a risk and that the planners never indicated at any stage that there would be a requirement for a full accredited assessment. I offered this option to you and you indicated that it was the duty of the planners to state their requirement of the same should they deem it necessary and that you had asked them if they required it and they had answered in the negative. I would hope that if it is the view of the Review Committee that a Flood Risk Assessment is indeed a necessity, then we can instruct one now without having to resort to a new full application or that planning can be granted subject to a condition of this requirement. What I can say is that in general common sense terms it would benefit an area such as Ballochyle to have a progressive minded resident building a house in a sustainable and low environmental impacting manner that seeks to upgrade the existing infrastructure of the estate and add more economically active residents to the area.

I also understand the potential future requirement to work with SEPA to provide "soft flood defence areas" such as wetlands and rushes on the edge of fields in my ownership to protect the Estate. I can point out in this regard that I have already given SEPA, represented by their engineer Mr Stan McKeddie, full access over this land to facilitate the saving of a very important Monitoring Station on the Little Eachaig and the removal of a collapsing weir that threatened to damage the river system. These works have now vastly improved the flow of water through this bottleneck and according to SEPA, vastly reduced the risk of any flooding.

I work and study as a Lawyer in the field of Water Resource Management on a daily basis and understand the requirements of the Local Authorities in these matters to ensure that the correct decisions are made in carrying out their duties and to enable the management of areas to move forward in a sustainable and environmentally friendly manner. I am also aware of the duties incumbent not only on them but also on those of us in the public realm to adopt a similar attitude towards our future responsibilities in this regard and I believe that I am someone who has such a view and as such any development on the site is going to enhance both the immediate and wider district by the example it seeks to set.

Regards



James Boyd LLb Dip.Lp NP
Solicitor and Notary Public

Cottage 3
Ballochyle Estate
Sandbank
Dunoon
PA23 8RD

21st April 2010

To whom it may concern

I am the owner of Cottage 3, Ballochyle Farm and have lived here for over five years along with my husband and my two young children.

When I first purchased the property of Ballochyle Farm and the surrounding land the building was in a desperate and dilapidated state. One side of the courtyard (the side that I now live in) was derelict and had been lying vacant for a number of years. My husband and I began a long, slow and very expensive process of bringing the farm buildings back to their former glory and in doing so we had to sell one half of the courtyard to a solicitor from Glasgow who intended to use it as a holiday home. This gave us the funds to restore the rest of the courtyard which has now been completed. This restoration has cost a lot of money and has involved totally refurbishment of the entire building. Poorly placed and very unsightly electricity poles had to be removed from the garden and the power lines buried in trenches. The adjoining barn was converted into a three bedroom cottage utilising as many of the original features as we could including pieces of the original threshing machine and retention of the vaulted barn ceiling.

What was once a crumbling eyesore has now been rejuvenated into a vibrant and attractive courtyard development. The courtyard now has two families as permanent residents. The barn was sold to a retired couple who moved here from elsewhere and who now run a local and well known cafe in the town. The estate now has an increasingly diverse community which can only benefit the area and my husband and I are very pleased with the results of our hard work. The restoration of the courtyard was much longer and more difficult than we expected, however that is the nature of old buildings, however we never anticipated that the final part of our plan, building a bespoke family home would be as difficult as it has proved to be.

I have applied over the years on three occasions for permission to build a dwelling in a field beside my house. The reason for wishing to build this dwelling is simple - I would like my family to grow up in this beautiful location in a well designed, contemporary and sustainable home using modern materials and with greatly improved energy efficiency to the dwelling that we currently inhabit. These three applications along with every other application made to the planning department with regard to the courtyard restoration have one thing in common - unfounded grounds for objection by Mrs Kirsteen Manuel. As the previous landowner of the once very

large Ballochyle Estate, Mrs Manuel has submitted increasingly vexatious letters of objection to each planning application submitted with regard to Ballochyle Farm.

Whilst of course any person has the right to object to any proposed dwelling in any place this right also comes with a responsibility - to provide honest information to the planning department and on this point Mrs. Manuel has clearly demonstrated a most dishonest approach over the years.

Firstly, Mrs. Manuel is not a full time resident at the address given. In her objection letter dated 6th March 2006 regarding a previous application at Ballochyle Farm she even provides us with her usual address - in London. In light of this how can any 'eyewitness' reports of flooding be taken at face value without at least some corroborative evidence from another source?

Secondly Mrs. Manuel appears to have gone to a lot of trouble with regard to the alleged flood risk to the proposed dwelling. She in fact provides copies of correspondence between herself and Dr Marc Becker from SEPA in order to back up her dubious claims about flood risk. Upon reading this correspondence I noted one fact in particular that is demonstrably false. In her letter dated 24th April 2006 to Dr Becker, Mrs. Manuel informs him that she is intending to purchase the field in question which is why she is requesting the flood risk information. His reply dated 27th April 2007 mentions an 'upstream gauging station' from the field and he provides a conclusion indicating a very high flood risk. Unfortunately what Mrs. Manuel has failed to mention is that the field to which she is referring is not the field in which the proposed dwelling is located. It is the lower-lying field beside it. She made an offer for this neighbouring field to the solicitor who owns the other side of the courtyard sometime during 2006 which he turned down. This field is downstream from the gauging station that Dr Becker refers to.

Lastly Mrs. Manuel repeatedly refers to the 'working farm buildings' near to the proposed dwelling in her many letters of objection. Over the five years that we have lived here I have observed these barns used very occasionally for the storage of gardening equipment and the fields adjacent to them are sub-let to a farmer from Glendaruel who has a small number of sheep grazing them. The only traffic to and from these buildings is a sporadic visit from the farmer or Mrs. Manuel herself when she uses the grassed area beside the barns for barbeques or bonfires etc.

In light of the many untrue assertions made by Mrs. Manuel in her correspondence with the planning department I was very disappointed to see that parts of her letter of objection are included in the reasons for refusing this most recent planning application. There seems to have been no attempt by the planning department to investigate and corroborate any of her claims, a fact which concerns me especially as she is well known as a serial objector to any development whatsoever on or near the estate. In fact when I asked the planning department if, as a matter of courtesy they could let me know if they were conducting any accompanied visits to the site (which they have conducted in the past without me or my architect being present but with Mrs Manuel being present) I received by email the blunt one word reply "Why?" The planning department's actions with regard to this and previous applications leave me with the distinct

impression that they do not want any development on any grounds that I own. We have suggested moving the proposed dwelling to the other side of the track and placing it on higher ground, still some 30m away from the existing courtyard, this has been rejected as well. It seems that no matter what my architect comes up with, the planning department simply moves the goalposts.

I am a key worker in Dunoon and have an active day to day role performing a vital public service to the Cowal community. My two children attend the local primary school and will eventually be attending Dunoon grammar school. With reference to a document produced last year by the Benmore and Kilmun community council my family and I are fast becoming an increasingly rare resource in the community. The local Benmore and Kilmun community action plan identifies that the local area has some 55% percent of the population economically active. This compares to a national average of 65% and a national park average of 68% indicating that the area has "a very high rate of retired people" (Community Action Plan 2009). The number of working families in the area is falling and therefore the life blood of the community is draining away. Part of the reason for this is the lack of available and affordable housing plots.

I am a part of the local community, my children are part of the future of the local community and I believe the house designed by my architect to be an inspiring modern interpretation of the traditional Scottish long house. I do not wish to build a house somewhere that is at risk from flooding nor do I wish to deprive anyone of the enjoyment of walking or cycling around the quiet, traffic-free lanes in the estate.

I have found this process deeply stressful and very frustrating, particularly the total lack of transparency from the planning department and their seemingly obstructive views towards any development within this Rural Opportunity Area

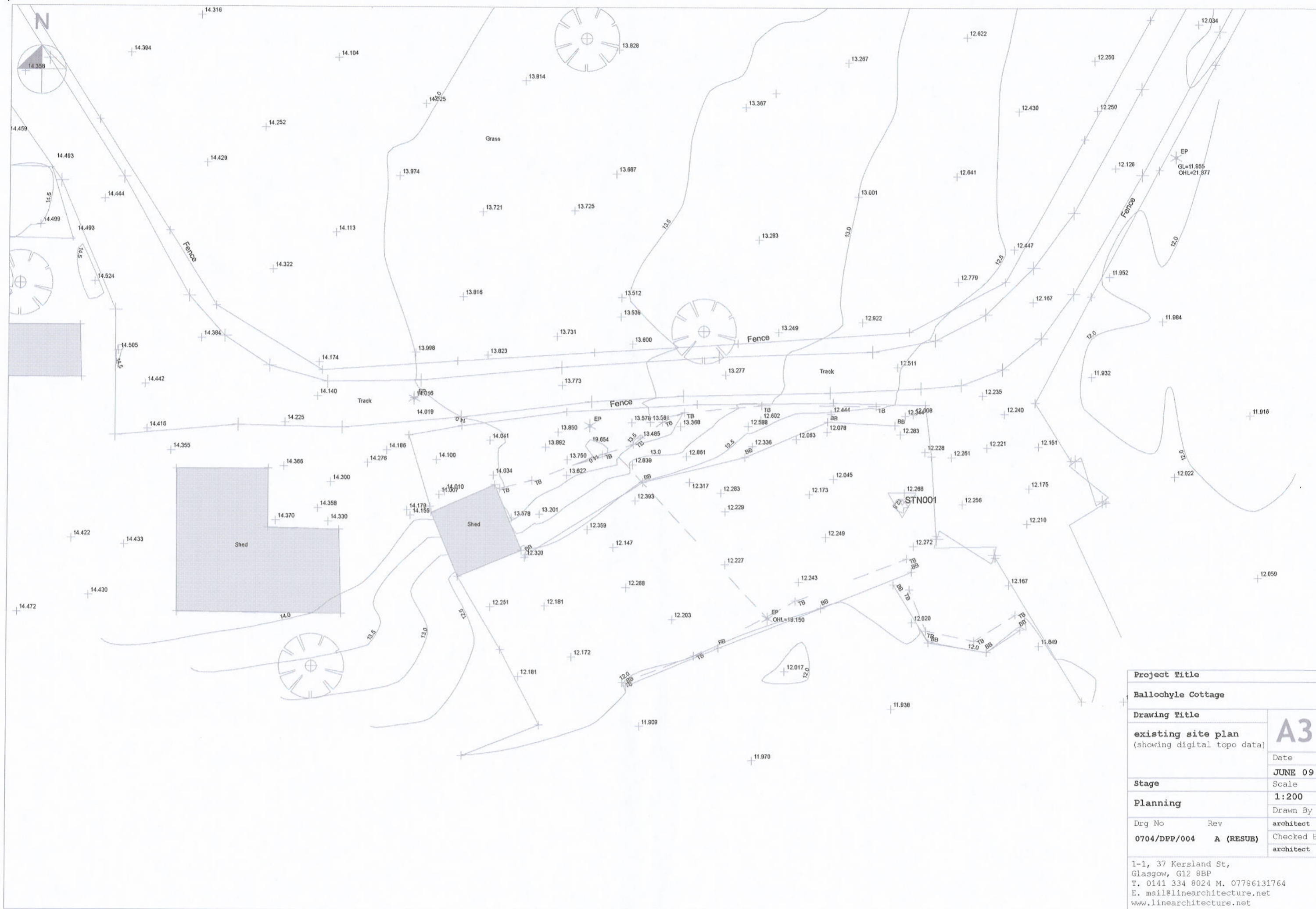
Regards

A handwritten signature in black ink, appearing to read 'Ffiona Boyd'. The signature is written in a cursive, flowing style with a large initial 'F'.

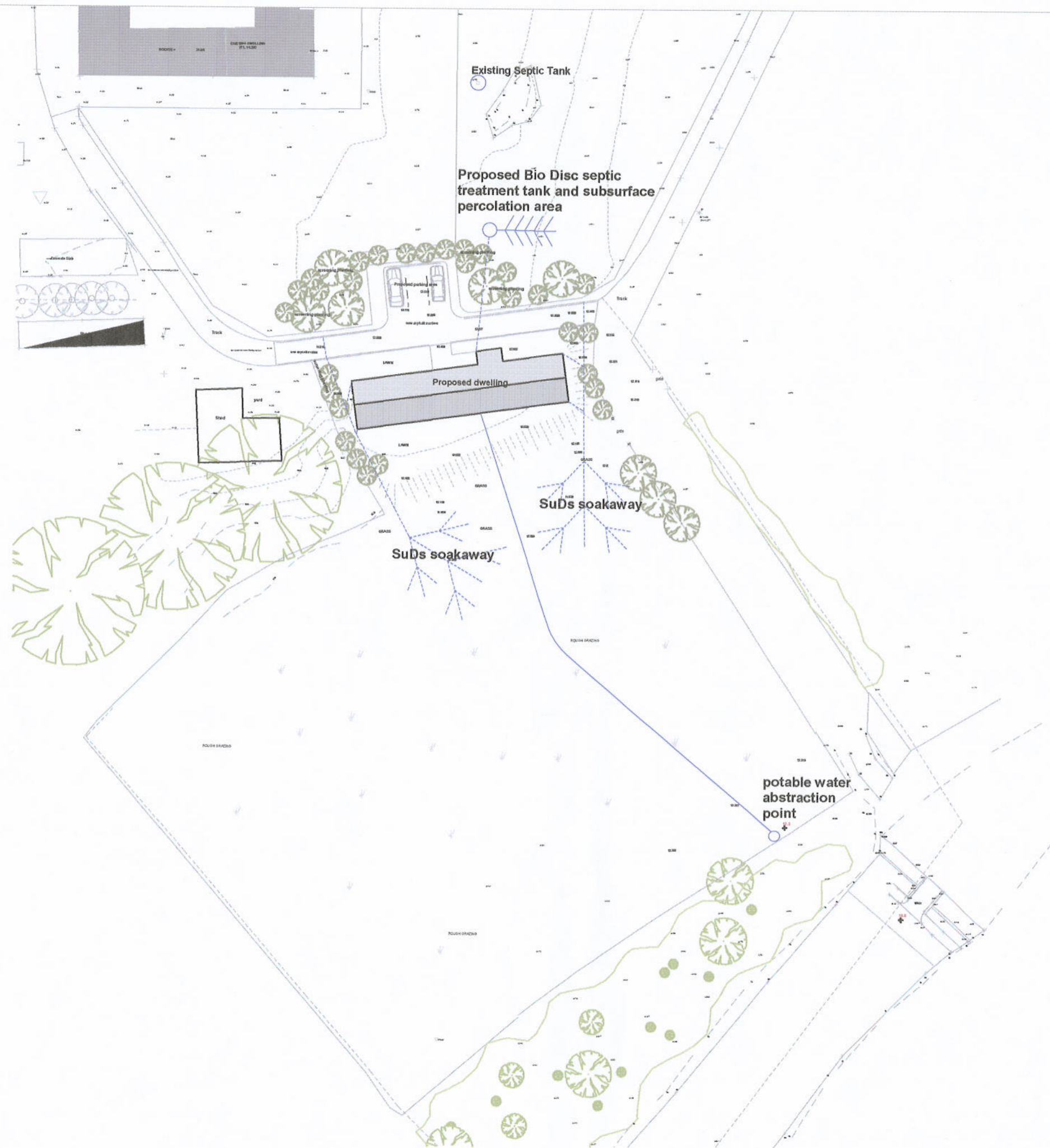
Ffiona Boyd



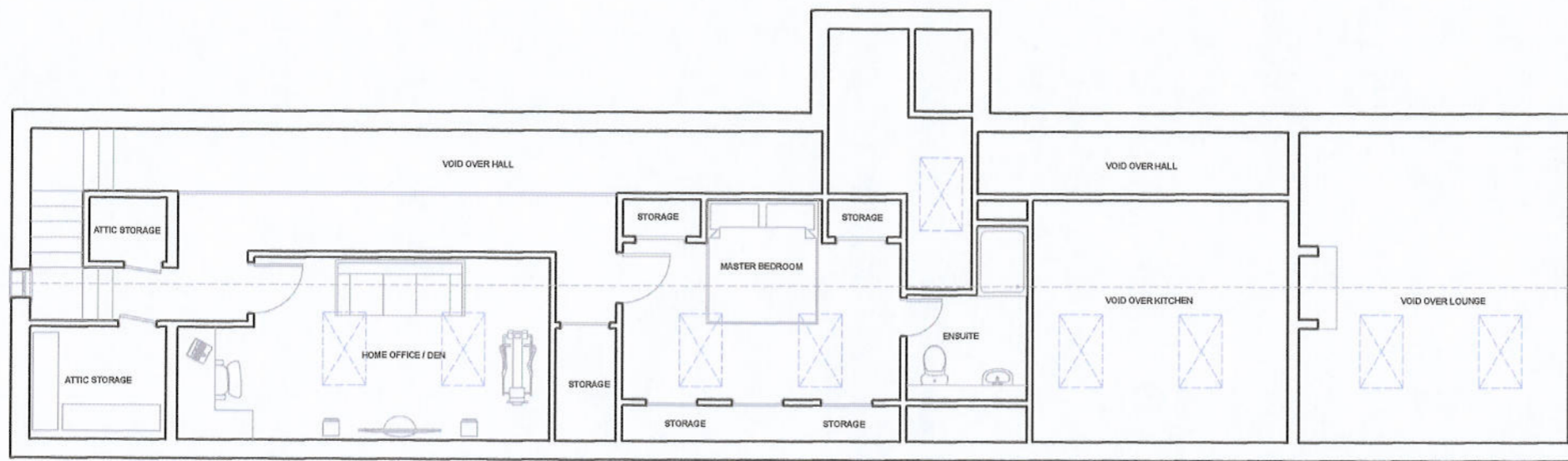
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Ballochyle Cottage		
Drawing Title		
location map		Date
		JUNE 09
Stage		Scale
Planning		1:2500
Drg No		Drawn By
0704_DPP_01		architect
Rev	Checked By	
A (RESUB)	architect	
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		



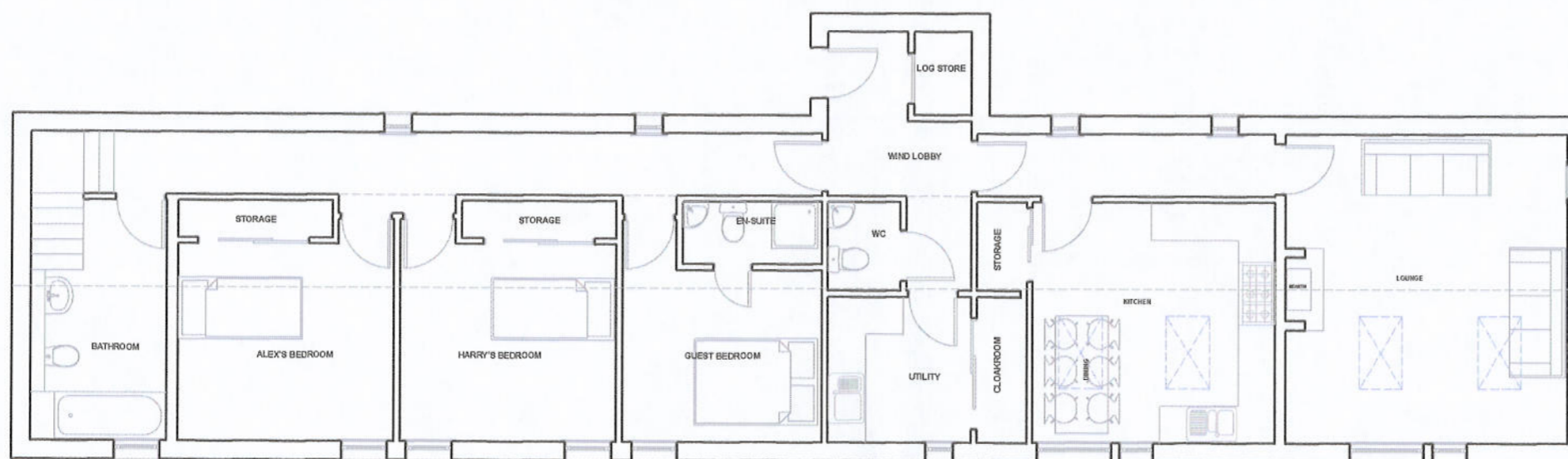
Project Title		A3
Ballochyle Cottage		
Drawing Title		Date
existing site plan (showing digital topo data)		JUNE 09
Stage		Scale
Planning		1:200
Drg No	Rev	Drawn By
0704/DPP/004	A (RESUB)	architect
		Checked By
		architect
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		



Project Title		A3
Ballochyle Cottage		
Drawing Title		Date
Proposed foul, storm drainage and potable water plan		JUNE 09
Stage		Scale
Planning		1:500
Drg No		Drawn By
0704/DPP/006		architect
Rev	Checked By	architect
A (RESUB)		
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		

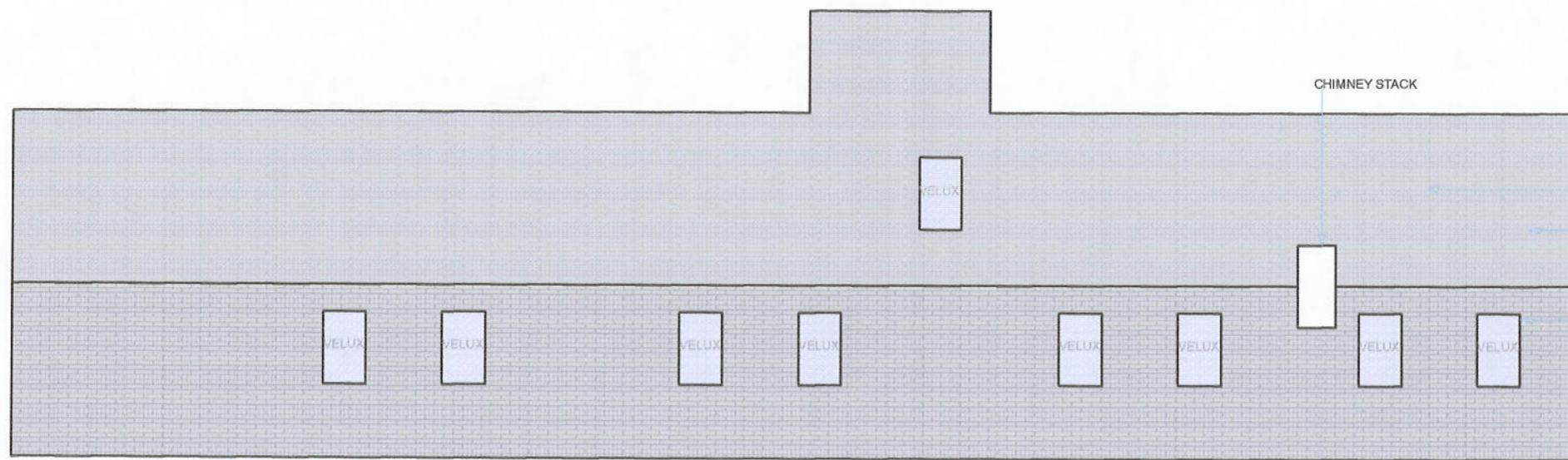


FIRST FLOOR PLAN



GROUND FLOOR PLAN

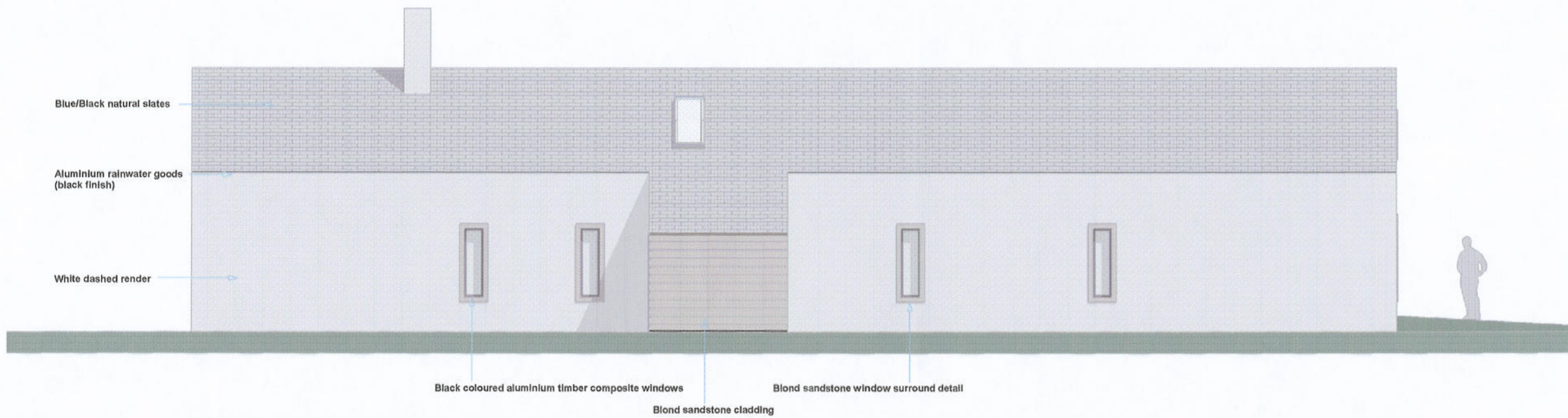
Project Title		A3
Ballochyle Cottage		
Drawing Title		A3
Proposed plans		
Date		JUNE 09
Stage		Scale
Planning		1:100
Drg No		Drawn By
Rev		architect
0704/DPP/008 A (RESUB)		Checked By
		architect
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		



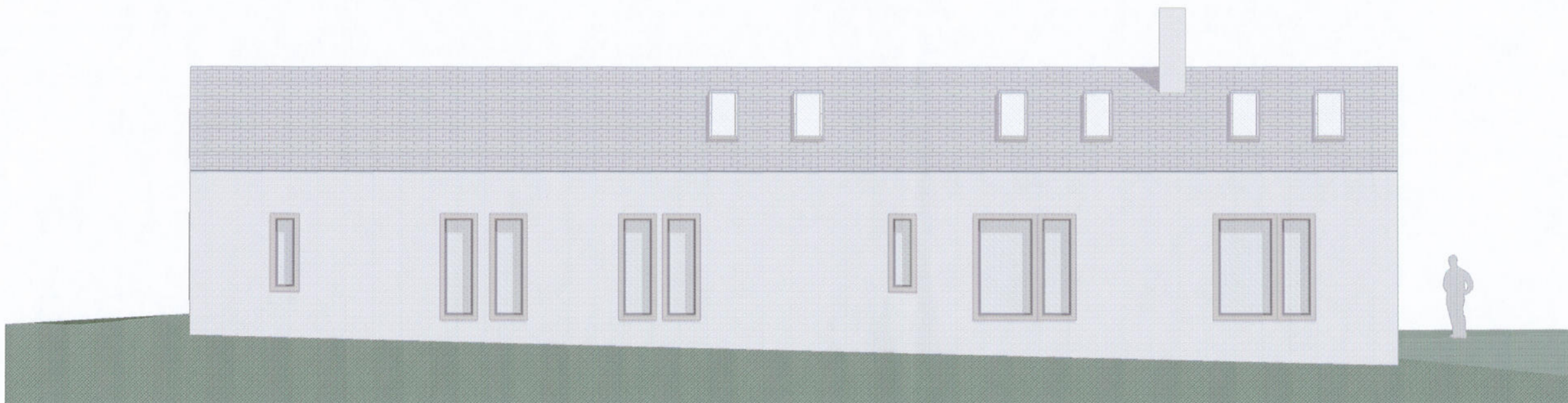
- NATURAL SLATE TO ALL ROOF AREAS (BLUE BLACK COLOUR)
- ALL VENTS AND EXHAUSTS THROUGH ROOF TO BE CONCEALED UNDER SLATE COLOURED VENTS
- ALL ROOFLIGHTS TO BE VELUX TYPE WITH INTEGRAL FLASHINGS

ROOF PLAN

Project Title		A3
Ballochyle Cottage		
Drawing Title	Proposed roof plan	
Date	JUNE 09	
Stage	Scale	
Planning	1:100	
Drawn By	architect	
Checked By	architect	
Drng No	Rev	
0704/DPP/008-R1 A (RESUB)		
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		

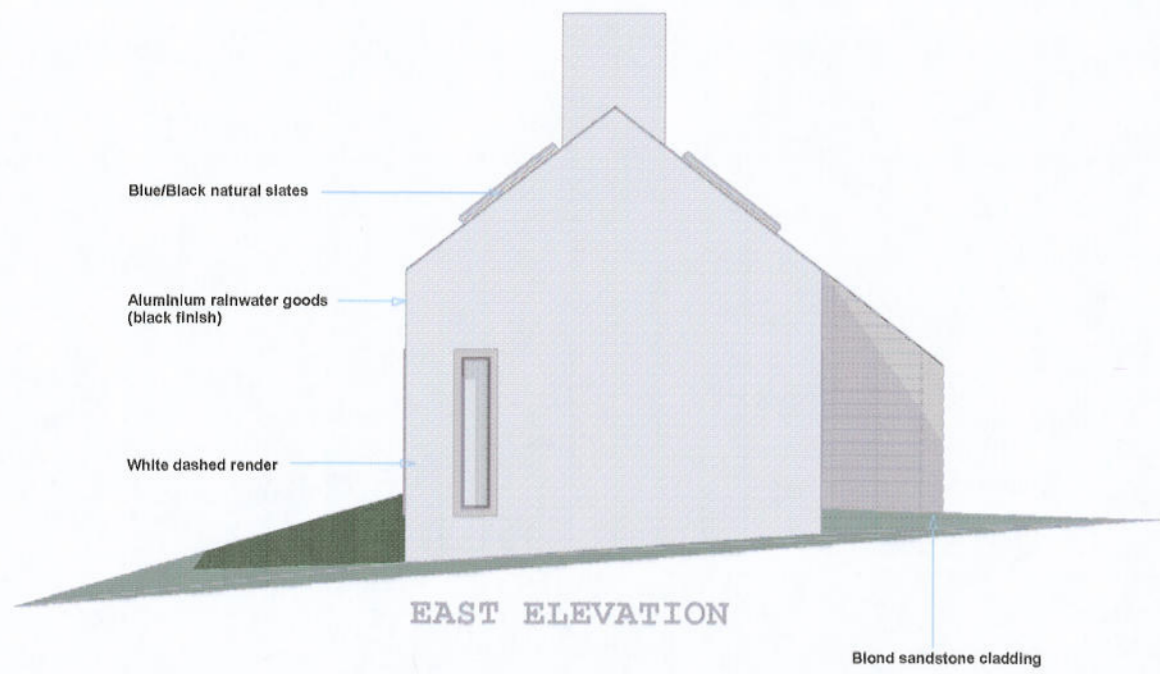


NORTH ELEVATION



SOUTH ELEVATION

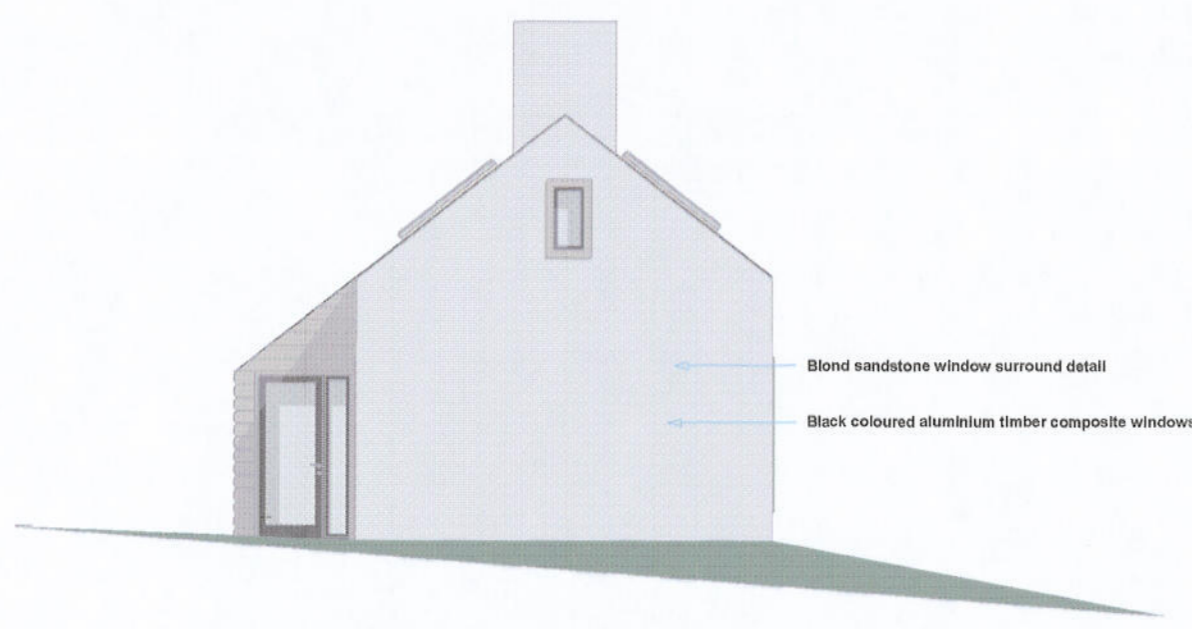
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Ballochyle Cottage		
Drawing Title		Date JUNE 09
Proposed elevations		
Stage		Scale 1:100
Planning		Drawn By architect
Drg No	Rev	Checked By architect
0704/DPP/009	A (RESUB)	
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		



EAST ELEVATION



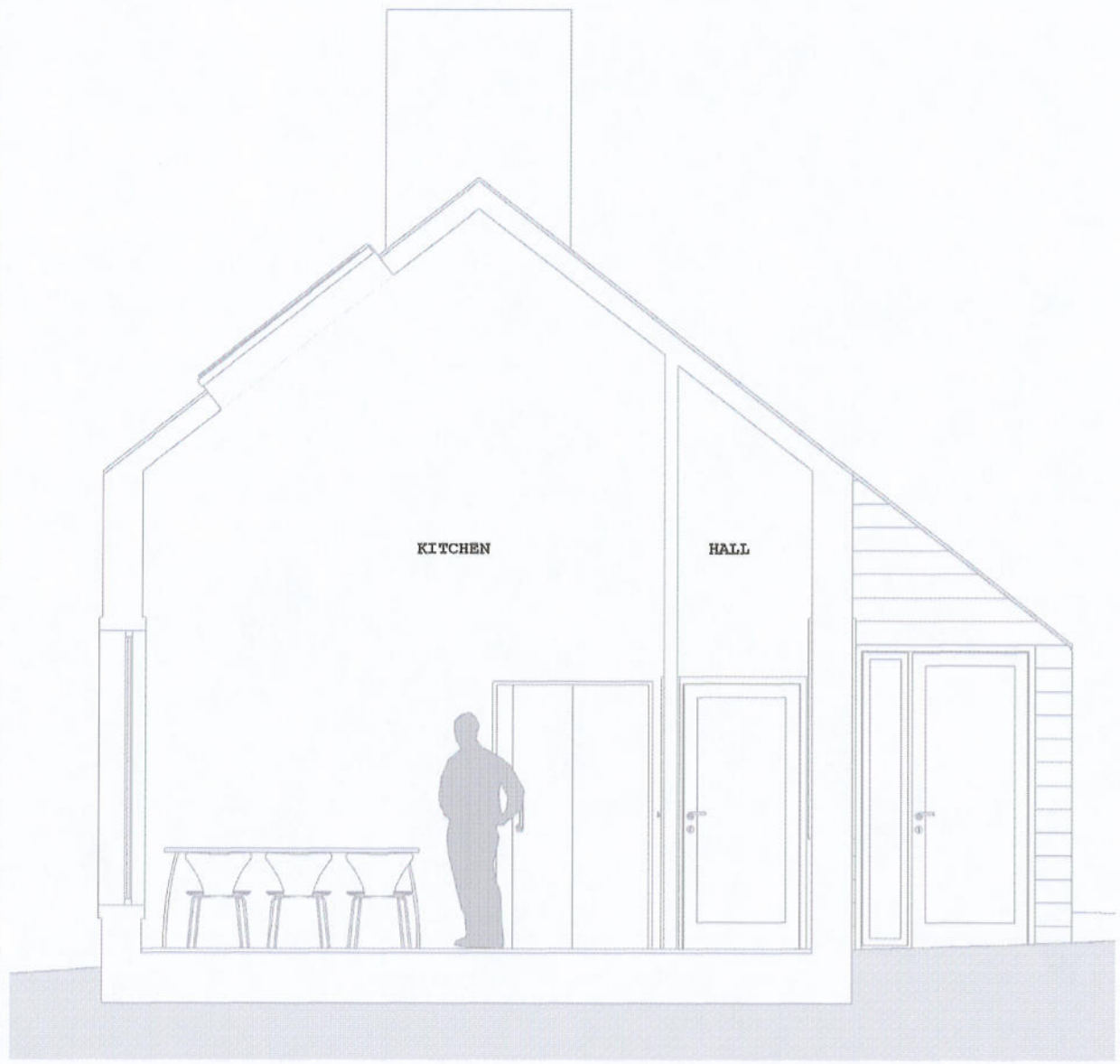
SECTION C (1:50)



WEST ELEVATION

Project Title		A3
Ballochyle Cottage		
Drawing Title		Date JUNE 09
Proposed elevations Proposed section C-C		
Stage		Scale 1:100
Planning		Drawn By architect
Drg No	Rev	Checked By architect
0704/DPP/010	A (RESUB)	

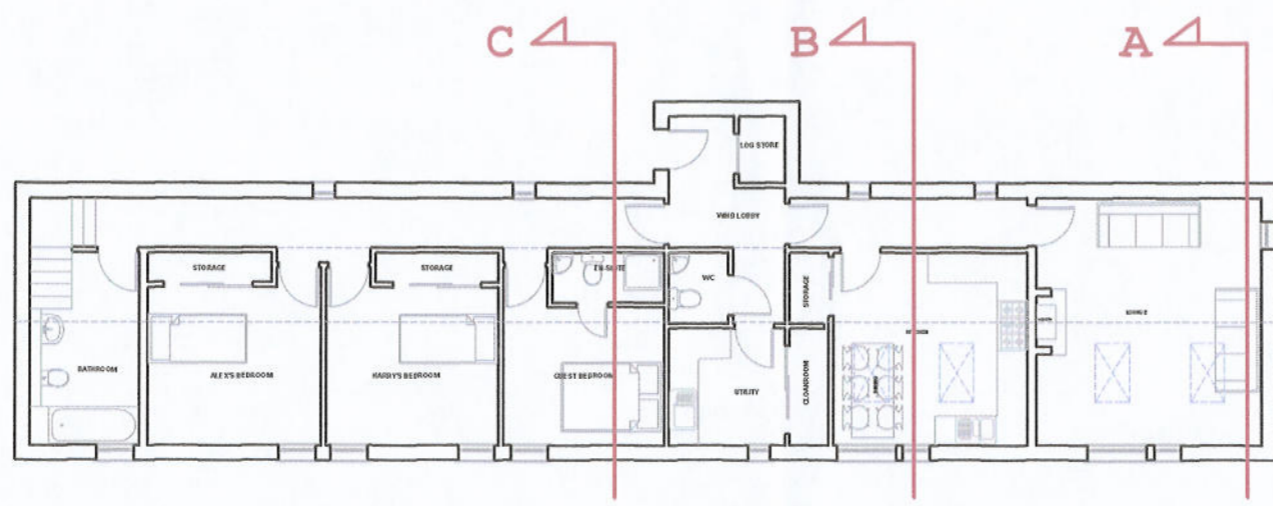
1-1, 37 Kersland St,
Glasgow, G12 8BP
T. 0141 334 8024 M. 07786131764
E. mail@lineararchitecture.net
www.lineararchitecture.net



SECTION B

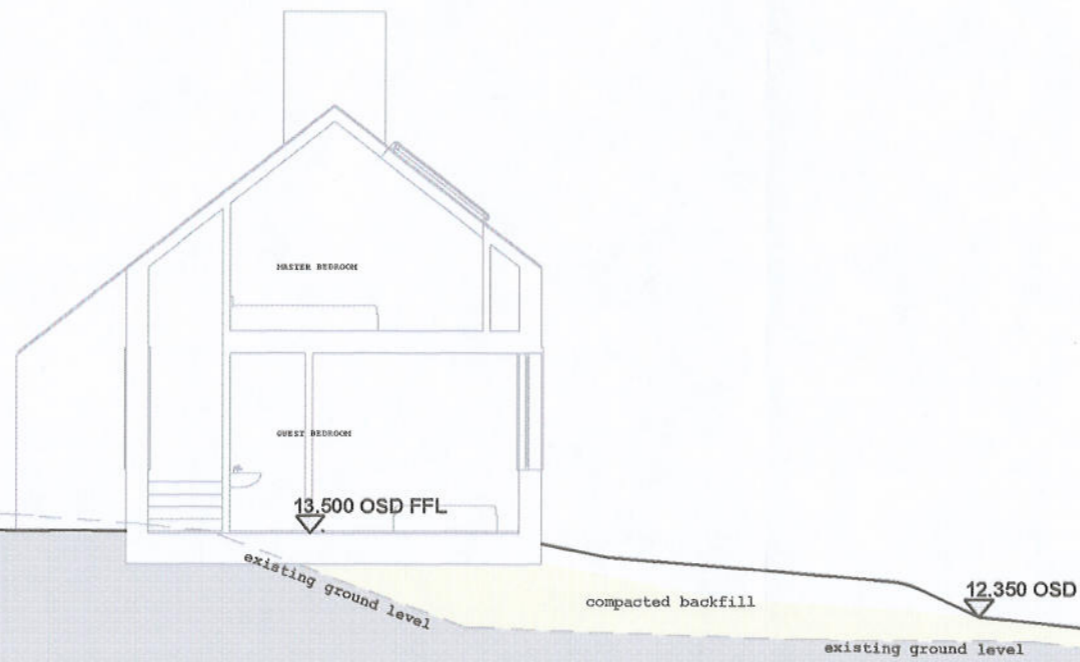


SECTION A

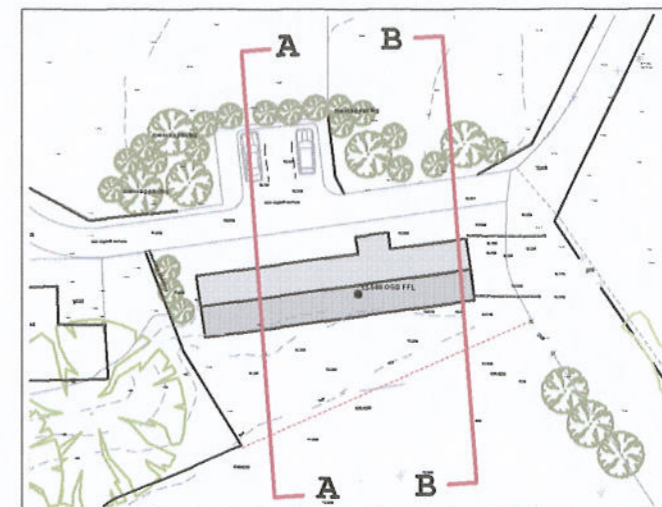


Project Title		
Ballochyle Cottage		
Drawing Title		A3
Proposed sections		
Stage	Planning	Date JUNE 09
Scale	1:50	Drawn By architect
Drg No	Rev	Checked By architect
0704/DPP/011	A (RESUB)	
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@lineararchitecture.net www.lineararchitecture.net		

EXISTING SITE SECTION A-A

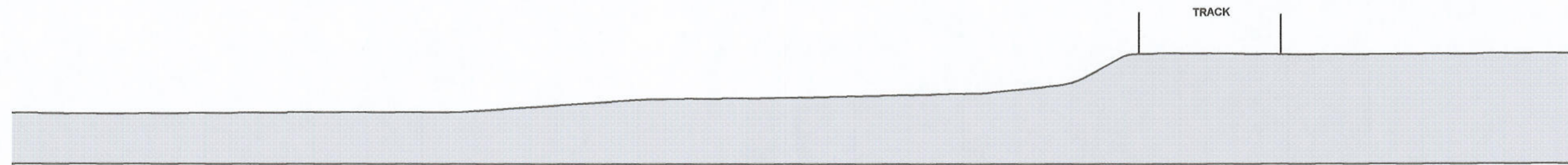


PROPOSED SITE SECTION A-A

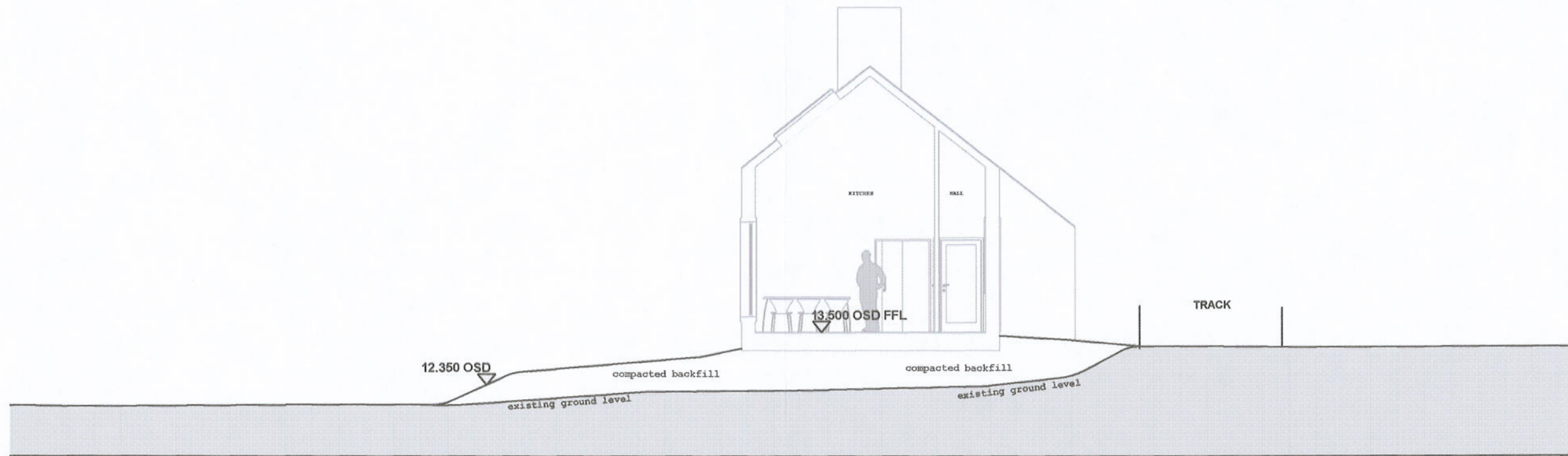


SECTION KEY

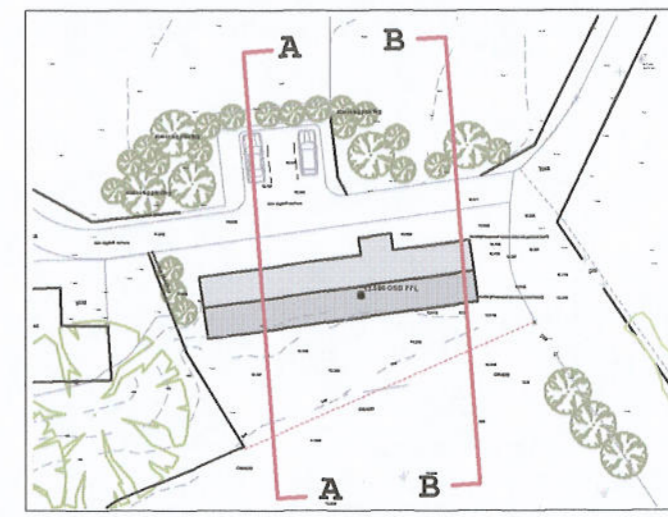
Project Title		A3
Ballochyle Cottage		
Drawing Title		
Existing & proposed site sections a-a		
Date		JUNE 09
Stage		Scale
Planning		1:100
Drg No		Drawn By
0704/DPP/012		architect
Rev		Checked By
A (RESUB)		architect
1-1, 37 Kersland St, Glasgow, G12 8BP T. 0141 334 8024 M. 07786131764 E. mail@linearchitecture.net www.linearchitecture.net		



EXISTING SITE SECTION B-B



PROPOSED SITE SECTION B-B



SECTION KEY

Project Title		
Ballochyle Cottage		
Drawing Title		A3
Existing & proposed site sections b-b		
Date	JUNE 09	
Stage	Scale	
Planning	1:100	
Drwn By	architect	
Drg No	Rev	Checked By
0704/DPP/014	A (RESUB)	architect
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DESIGN REPORT

New Rural Dwelling

Ballochyle - Argyll



August 2009

linearchitecture

The submitted proposal shown here is for a four bedroomed, traditionally influenced yet contemporarily styled family dwelling in Sandbank, Argyll. The site has previously submitted for planning approval for the erection of a dwellinghouse (Planning Ref. No:06/01964/DET) and this submission was refused and all of the refusal comments have been considered with this wholly new proposal.

Ballochyle is an area identified in the Local Area Plan (Finalised Draft) as being a Rural Opportunity Area and as such is suitable for small scale housing development within certain subjective criteria. This designation notwithstanding maximum effort has been taken to ensure that this proposed dwelling conforms with all applicable Rural Housing criteria and that the proposed dwelling is a harmonious addition to this location.

The proposed dwelling is accessed by local estate roads that have been recently upgraded and resurfaced. The applicant has full access and servitude rights to the proposed dwelling site.

The estate is served by a private water supply that is in need of upgrading to reach local authority minimum standards. It is proposed to create a new private water supply to provide potable water to the proposed dwelling by drawing water from the Little Eachaig River; a report and laboratory results giving details of this supply are included with this application.

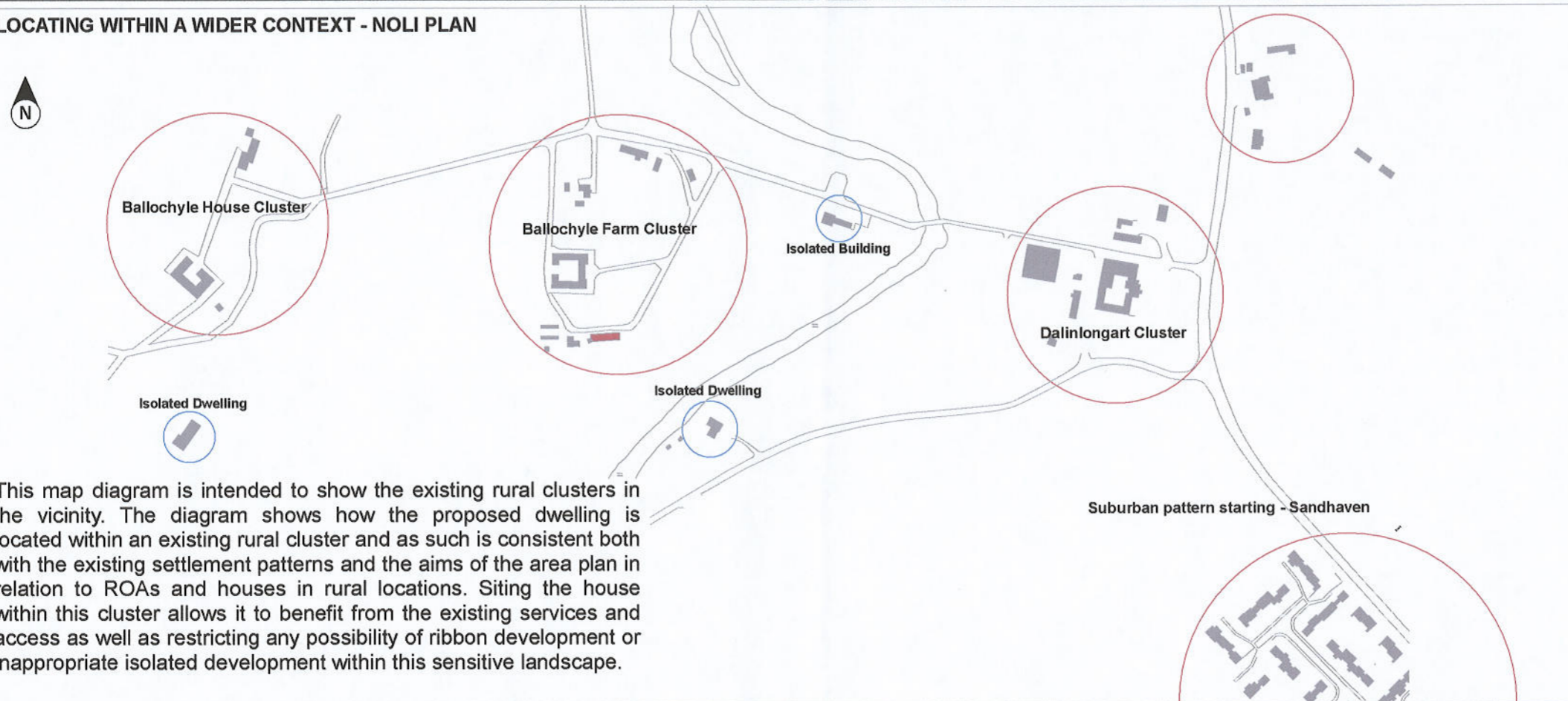
There are current works on going on the site by SEPA to replace the weir and gauging station on the Little Eachaig river and also works ongoing by Scottish Hydro to route all of the local electricity supply cables underground.





The immediate area of the proposed development site is characterised by the traditional, early twentieth century Ballochyle Farm steading buildings, the scattered farm outbuildings of timber and corrugated iron and a number of non-descript late 20th century buildings such as the SNH office. Planning permissions have recently been granted for the conversion of Ballochyle Farm into four separate units and these projects have now been finished, transforming a seriously dilapidated agricultural building into a vibrant collection of dwellings and holiday cottages. The majority of the built context in the vicinity is of a utilitarian, agricultural idiom - and it is this heritage of simple, undecorated geometric forms that this proposed dwelling draws its influence.

LOCATING WITHIN A WIDER CONTEXT - NOLI PLAN

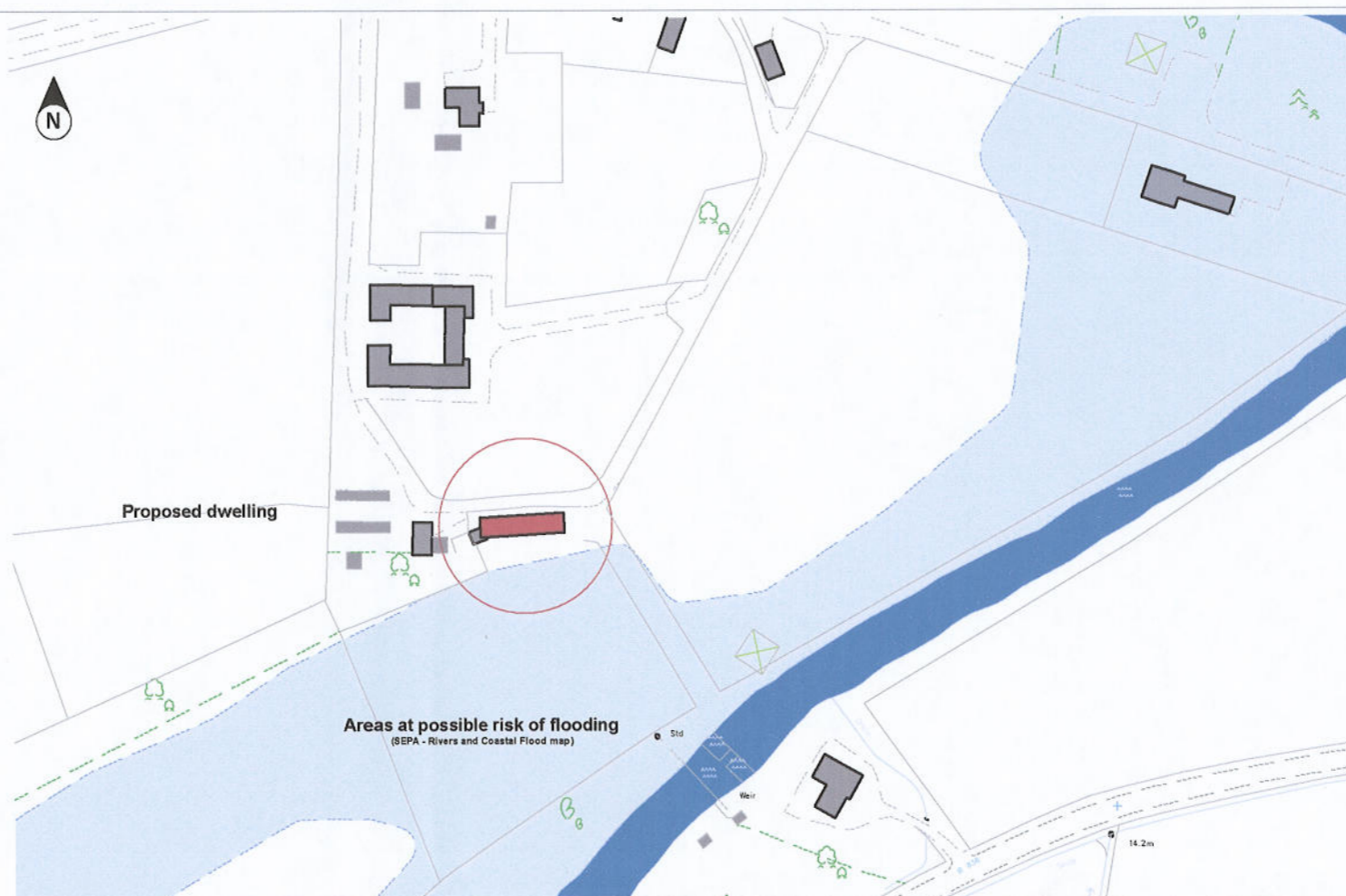


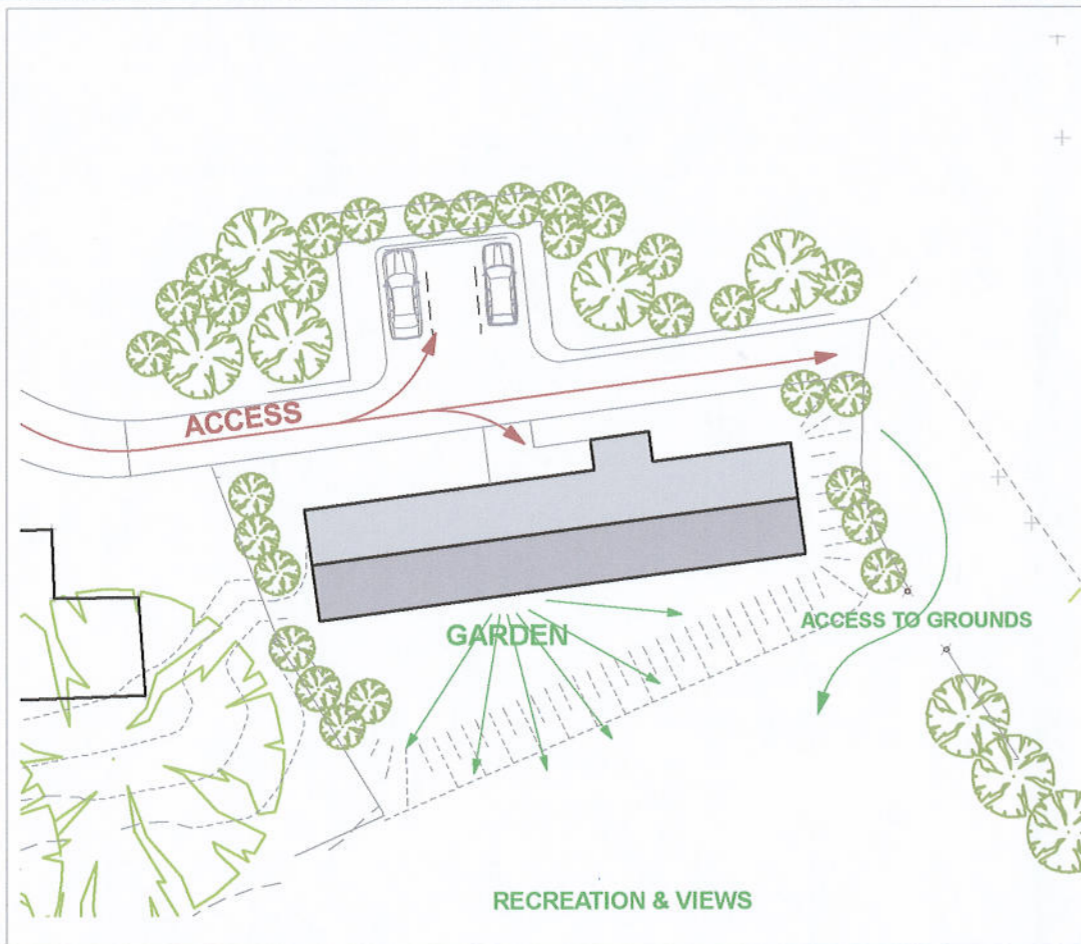
FLOODING

This proposed dwelling and all of its access and utility curtilage is outside the functional floodplain of the Little Eachaig River - as shown on SEPA's Indicative River & Coastal Flood Map (Scotland) - See diagram on this page.

We have carefully sited the building to ensure that it will never be at risk from flooding from this river. The normal river level at the adjacent weir is 10.00m OSD and the highest ever recorded flood level of 12.36m OSD. However it should be noted that this flood level was recorded only at the Dalinlongart gauging station and there is no evidence that the proposed site has ever been inundated. The proposed FFL of the proposed house is 13.50m OSD and is 1.14m above the highest flood level and 3.5m above the normal river level. Therefore the likelihood of flooding from the Little Eachaig River is nil.

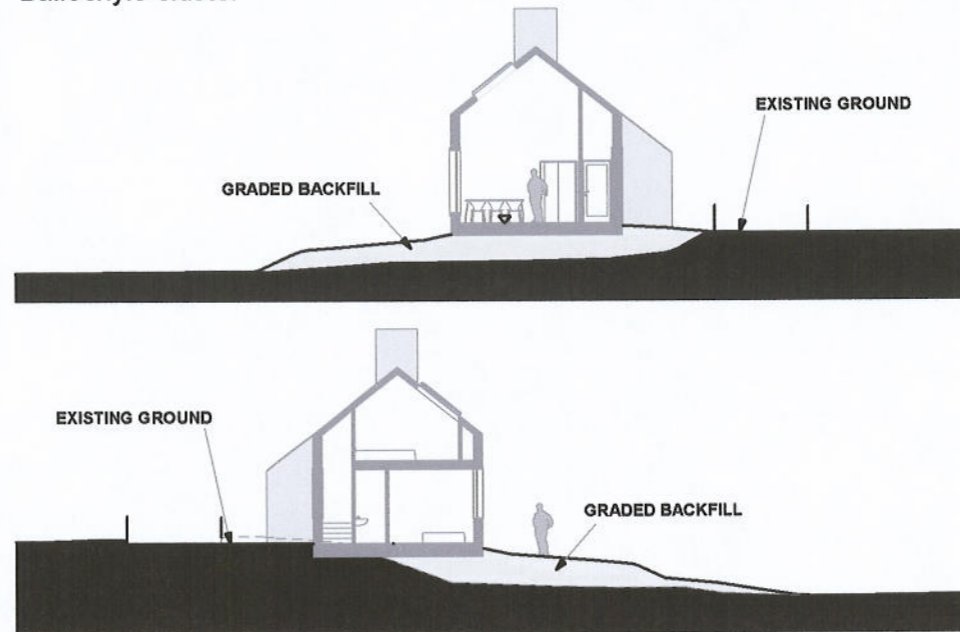
SEPA have recently completed the full upgrading the weir and riverbank reinforcement adjacent to the site and this will further mitigate any possible flooding to the surrounding fields - but as previously mentioned, will have no effect on the proposed dwelling.





Building positioning principles

The siting of the building footprint has been driven by a number of factors; however primary amongst these are the existing site topography and the orientation of the site towards the sun and towards views. These factors dictate that the best solution for the site is a linear, narrow plan dwelling. The existing topography of the site needs very little modification to allow the proposed dwelling to sit well above any flood risk area and to allow the dwelling to sit at a level that is broadly similar to all other buildings in the Ballochyle cluster

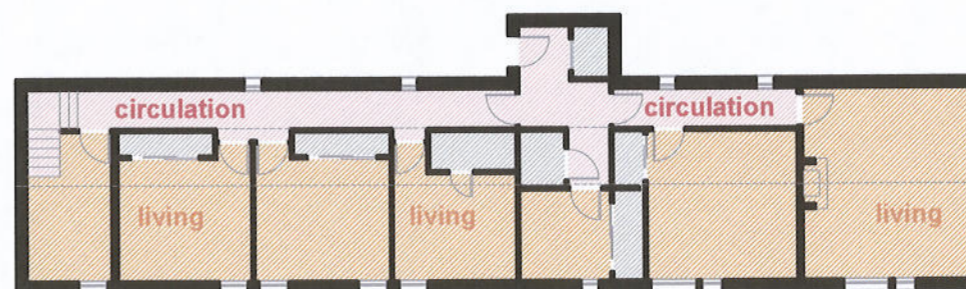


Building schematic principles

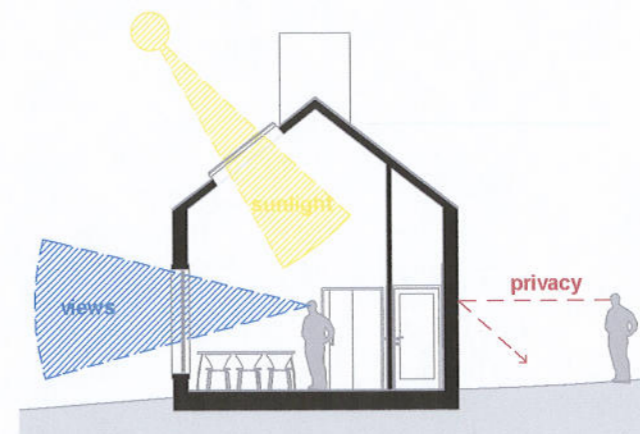
The proposed dwellinghouse is a very simple yet carefully considered design that is wholly site specific. It responds to its setting by orientating all of the living areas towards the sun and the views and uses the circulation as a barrier between the living areas and the more public side of the building. This schematic layout also assists the building's environmental strategy by ensuring that the main heated areas are not abutting the exposed north façade of the building.

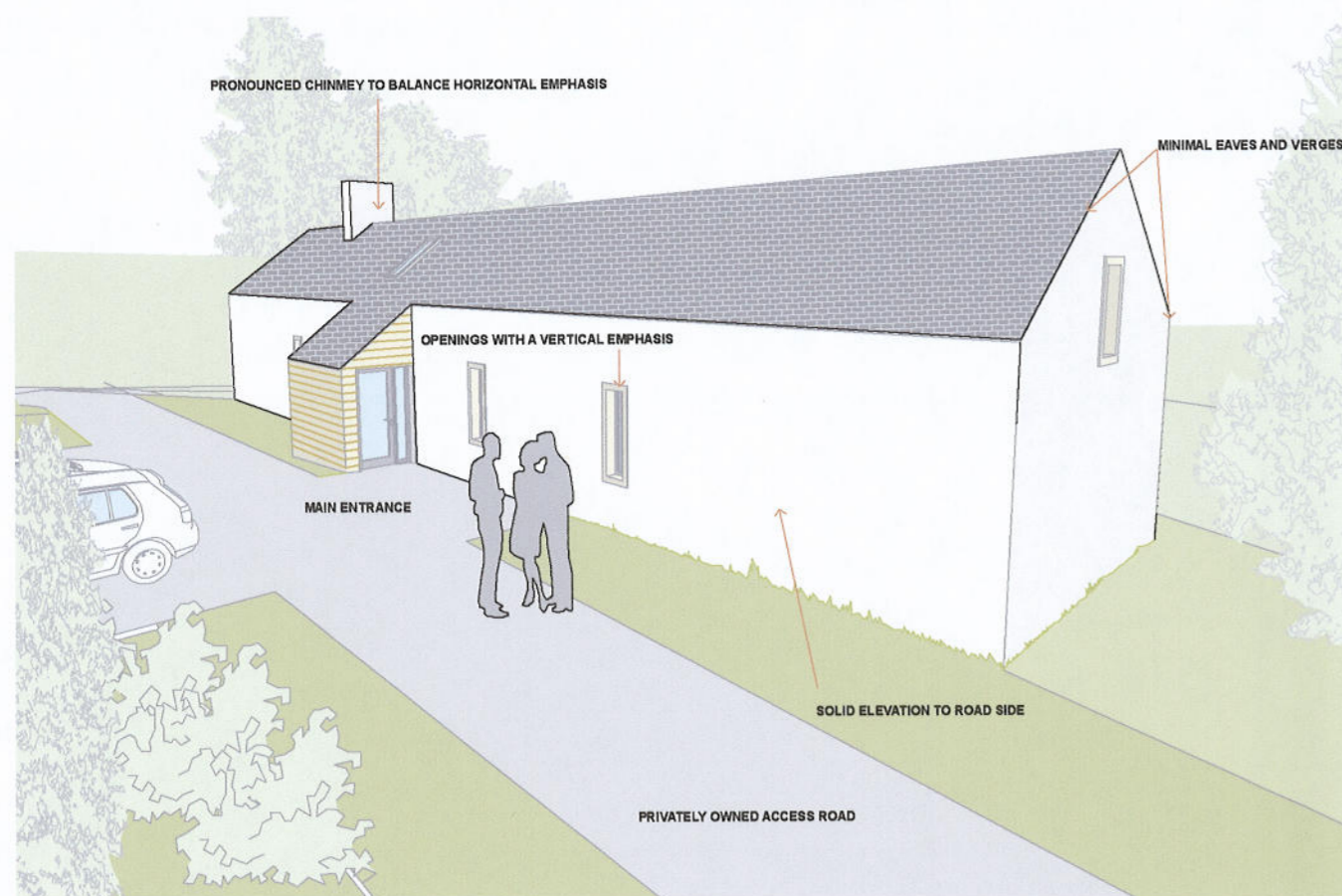


public aspect



private aspect





The proposed dwelling is based on a traditional narrow and long plan form. The dwelling's principle rooms all face the river and all secondary and circulation spaces face the road / approach side, giving the dwelling both high levels of privacy and also to maximise the views to the setting.

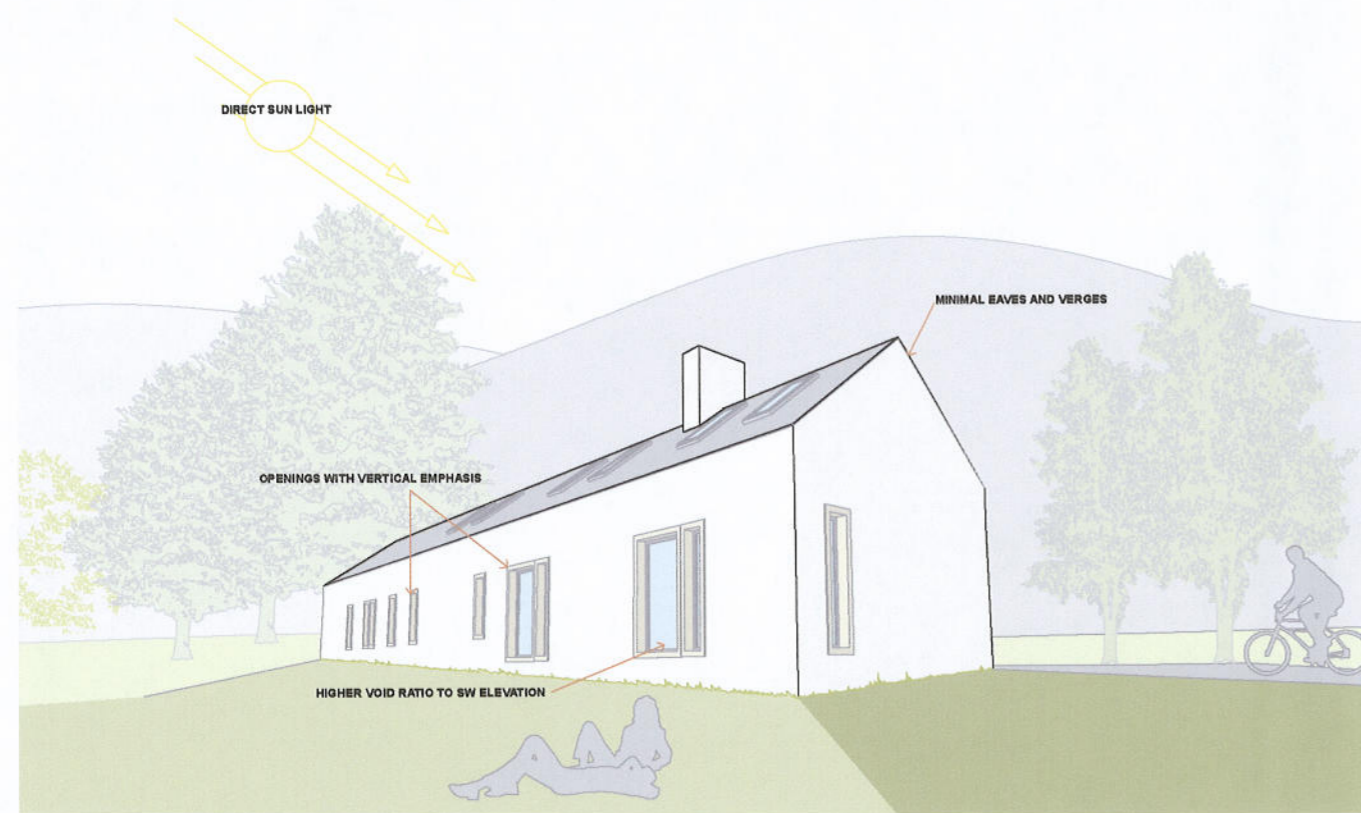
This simple plan form also is the main generator of the elevational treatments of the building. It is derived from long and low traditional cottage forms but with both contemporary and site specific features.

The mass of the proposed building features a traditionally high solid to void ratio where the mass of the wall is emphasised. The large areas of solid masonry are counterbalanced by large window openings, set back in deep reveals. The high solid/void ratio is prominently expressed on the elevation facing the road /entrance where there are very few windows and the main feature is the entrance porch. This element has been designed as a pronounced feature that clearly demarks the entrance and gives the dwelling visual legibility. This element is clad in blonde sandstone and acts as both the main entrance and wind lobby to the dwelling.

The fenestration throughout consists of simple rectangular openings with a vertical emphasis. These openings reflect the plan insofar as the principle rooms all feature larger openings facing the main view to the river while secondary spaces such as bathrooms feature smaller openings.

The fenestration is recessed within deep reveals to highlight and accentuate the wall thicknesses. To further highlight this and to give the facades a subtle contemporary articulation all of the windows feature blonde sandstone window sills, surrounds and reveals to add interest and texture to the intentionally simple facades.

The roof of the proposed dwelling is natural slate and has been designed to have no eaves or verge overhangs. This features adds to the contemporary detailing of the proposed dwelling while also referring to the eaves and verge details of traditional cottages.



Design Precedents



Traditional Rural

traditional, narrow plan cottage with simple fenestration and large areas of wall mass



Contemporary Rural

contemporary details and materials on a traditional outline. Large areas of glass and majority timber clad



Rural Hybrid

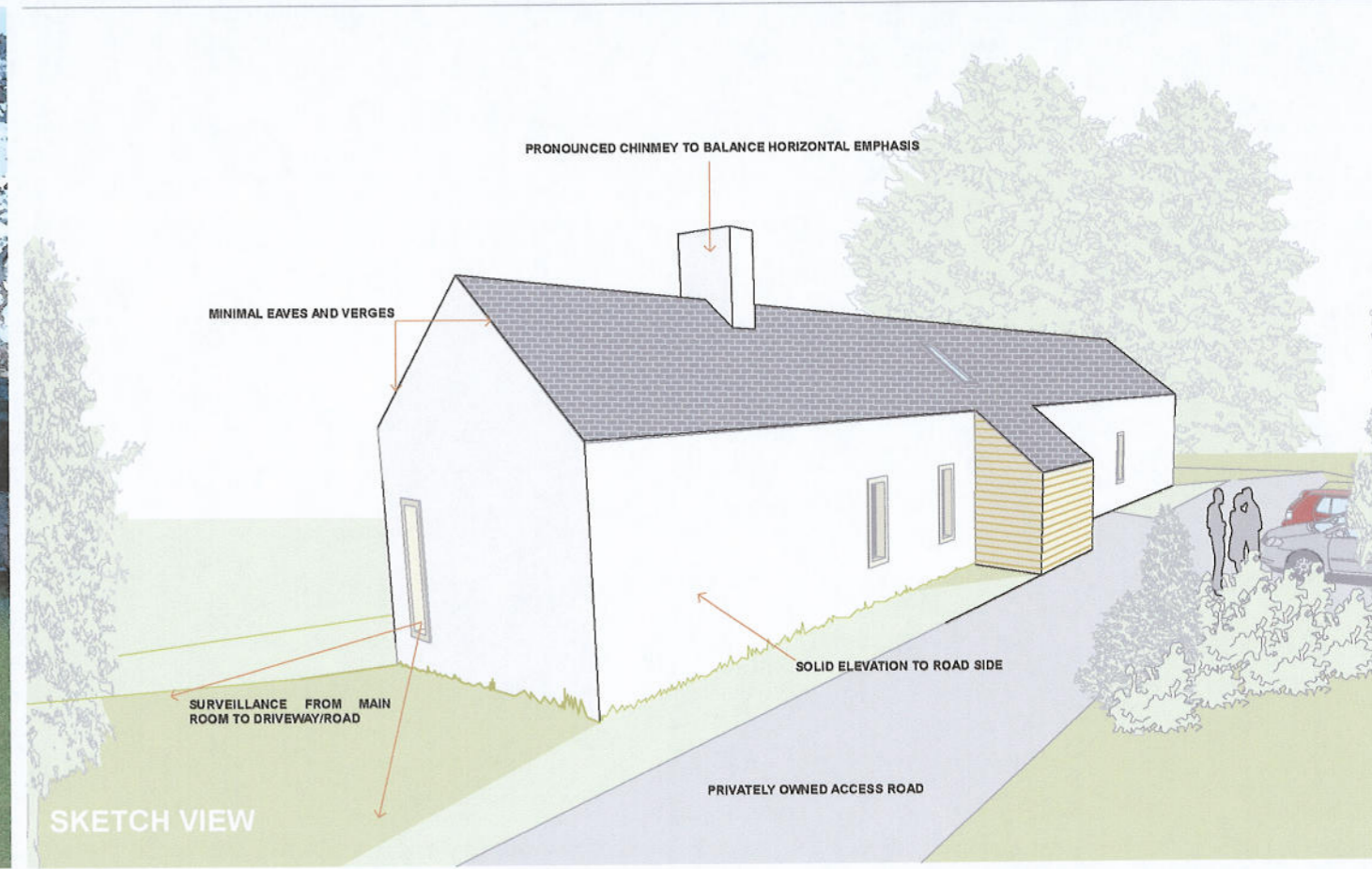
fusion of traditional materiality and mass with contemporary detailing - it is this strategy that we wish to follow with our proposal



VIEW FROM RIVER



VIEW FROM ENTRANCE



SKETCH VIEW