

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE
10 November 2015**

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| Agenda Item | 7.4 |
| Report No | PLS/080/15 |

**15/01557/FUL: Ossian Hotel
Ossian Hotel, The Brae, Kincaig**

Report by Area Planning Manager - South

SUMMARY

Description: Erection of timber lodge for holiday accommodation (amended proposal)

Recommendation – GRANT

Ward : 21 – Badenoch and Strathspey

Development category: Local

Pre-determination hearing: Not required

Reason referred to Committee: Objection from Community Council as Statutory Consultee.

1. PROPOSED DEVELOPMENT

- 1.1 The proposed development now consists of a single detached timber holiday lodge, described as being of “half A frame” design. It is a typical such lodge with horizontal timber board walls and a steep pitched roof clad in an unspecified material, but in the illustrations having a tile-like appearance, sloping down to low eaves level (approximately 1.5 metres above ground level) from a ridge height above ground level of approximately 8.5 metres. As part of the variation made to the application during processing the existing hotel access is now proposed to be remodelled in the form shown on drawing no. 000006.
- 1.2 No pre-application consultation was undertaken; such consultation is not mandatory for local developments.
- 1.3 The existing site access is a typical Victorian-era driveway entrance meeting The Brae at an acute angle and also serving two neighbouring properties. Part of the access track just south of its junction with the public road has recently been narrowed by the erection of a fence defining the property boundary of the neighbouring properties (a house and former outbuilding) adjacent. The village is served by all mains services (water, sewerage, electricity).

- 1.4 The supporting information submitted consists of a letter which begins by comparing the application proposals as submitted to the development previously granted planning permission on the same site but concludes with description of a number of matters of dispute with the neighbour which are not material to the application, together with a photograph of works which are one of the matters of dispute.
- 1.5 **Variations:** Since the application was lodged it has been varied in the following respects:
- The line of the site boundary has been amended to reflect the applicant's actual ownership as he understands it to be;
 - Access onto The Brae is to be widened and realigned;
 - The number of lodges is reduced from 2 to 1;
 - The remaining lodge is sited more centrally on the lawn;
 - Outdoor decking and a hot tub thereon have been removed from the lodge design.

2. SITE DESCRIPTION

- 2.1 The site is an area of level lawn on the north-east side of the Ossian Hotel, a large Victorian building set in mature landscaped grounds in the older core of Kincaig. It is surrounded by residential development of both original Victorian vintage and modern infill development, including one house built on what was formerly a part of the hotel grounds below and to the east of the application site. The area generally contains numerous mature trees and in particular there are trees on and overhanging the north-east and north-west boundaries of the site. Vehicle access to the site is via the existing hotel access which meets The Brae at an acute angle at the northwest corner of the whole property.

3. PLANNING HISTORY

- 3.1 09/00230/FULBS erection of family/staff accommodation block - PP granted 20/5/10
- 10/02339/FUL replacement of flat roof to incorporate hotel kitchen, office, store and maisonette flat - PP granted 6/8/10
- 10/03551/FUL change of use of part of hotel accommodation to 3 self contained holiday units - PP granted 2/11/10
- 10/05033/FUL replacement of flat roof to incorporate hotel kitchen, office, store and maisonette flat (revised proposal) - PP granted 18/8/11
- 15/00956/FUL erection of 2 timber lodges for holiday accommodation - withdrawn before determination

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour. Expiry date 21/5/15
- Representation deadline : 21/5/15 (original), 30/9/2015 (varied)
- Timeous representations : 4 from 4 households (original), 3 from 3 households (varied)

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Restricted/inadequate access and parking
- Inappropriate design/materials/height
- Loss of privacy
- Loss of sunlight
- Noise disturbance
- Impact on view
- Harm to character of hotel due to relatively high plot ratio
- Possible use as permanent dwelling
- Boundary incorrect - correct boundary restricts potential parking and aggravates impact on neighbour's amenity
- Loss of trees and consequent effect on wildlife
- Wrong time in development cycle for new self contained development
- Hotel access rights should be demonstrated
- Development would aggravate nuisance caused by inadequate diameter sewer pipe
- Proposed bin stance position harmful to visual amenity
- Risk of access being taken by alternative route

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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **Transport Planning:** No objection

5.2 **Forestry Officer:** Unable to support as submitted

5.3 **Kincraig & Vicinity C. C. :** Object to loss of garden grounds associated with larger properties especially when (as in this case) for commercial operations.

5.4 **CNPA :** No objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Cairngorms National Park Local Development Plan 2015**

2 Supporting Economic Growth

3 Sustainable Design

4 Natural Heritage

5 Landscape

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not applicable

7.2 **Local Development Plan Supplementary Planning Policy Guidance**

2 Supporting Economic Growth

3 Sustainable Design

4 Natural Heritage

5 Landscape

7.3 **Scottish Government Planning Policy and Guidance**

SPP

7.4 **Other**

Highland Council supplementary guidance "Trees, Woodlands and Development"

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.

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.

8.3 **Development Plan Policy Assessment**

LDP Policy 2 supports development which enhances tourism and leisure based businesses and tourism and leisure related infrastructure including accommodation, such as the proposed lodge. The determining issue would therefore be whether the development meets the Policy 2 test of having no adverse environmental impacts on the site or neighbouring areas as well as complying with other relevant Policies.

LDP Policy 3 indicates that development must protect the amenity enjoyed by neighbours including minimisation of disturbance caused by access to the development site and include an appropriate means of access and egress. The determining issue would therefore be whether neighbours' amenity is protected in the design and siting of the lodge; in changes to the level of traffic likely to use the access; and in the design of the modified access to The Brae.

Trees on the site are subject of a Tree Preservation Order, which is one of the protected natural heritage interests listed in LDP Policy 4 ("recognised by the planning authority") as worthy of protection in considering previous applications on this and the adjacent property, and both these and the trees at and adjoining the access onto The Brae contribute positively to the landscape character of the village. The determining issue in this instance would therefore be whether the development will result in such loss of or damage to trees as to offend against LDP Policy 5's requirement that development complement and enhance the landscape character of the Park and the development's setting.

8.4 **Material Considerations**

The Community Council's objection is on an issue of principle but loss of garden ground to development is not ruled out in principle by any LDP Policy. Indeed housing Policy (LDP 1) specifically supports development of housing on infill sites or derelict or underused land. Any development application whether for housing or as in this case for holiday accommodation must be assessed on its merits in relation to the detailed siting, design and layout tests of the relevant Policies.

The objection which refers to the "end of the development cycle" is difficult to understand. The only simple interpretation is that it is referring to the previous Local Plan, which was about to be superseded by the 2015 Local Development Plan when this development was first submitted as 15/00956/FUL. By the same interpretation though, this application would have to be seen as being submitted towards the start of the next "development cycle". It certainly needs to be determined on the basis of the Policies in the 2015 Local Development Plan.

The proposed lodge is of a design and form typical of such accommodation elsewhere. While it will have some impact on the setting of the hotel this would not be significantly harmful due to its siting to the side of the hotel building and behind the line of its principal elevation. Whilst its form is rather more anomalous in relation to the forms of nearby buildings than the 1¾ storey form of the block granted permission for this site in May 2010 (09/00230/FULBS), it reflects its intended purpose and it would appear difficult to argue that it is so inappropriate to the character of the area that refusal on the design grounds suggested by contributors would be justifiable. The overall height is greater than that of the previously approved block by approximately 1 metre but the profile presented to the west (to the nearest neighbour objecting on the grounds of loss of sunlight) will be rather less bulky overall. As loss of sunlight was not judged unacceptable in the case of the 2009 proposals and the impact of the current proposal would be even less there is no case for refusal of permission based on this consideration.

The amendment to the proposal as well as removing one of the two lodges has removed outdoor decking etc to the rear, which would have been a potential source of noise and disturbance, and the only opening in the elevation facing this objector's property is now a single glazed door from a ground floor bedroom leading out onto a landing and steps. The residual impact on the privacy and amenity of this objector's property is insignificant and would not justify refusal.

Another objector has referred to the impact of the development on views from his property (Birchwood). While the view from a property may be said to contribute something to its overall amenity it is not a legal entitlement. The particular situation suggested - that an intervening house already granted permission (12/04544/FUL) might not be built so this proposed lodge would be visible - is contradicted by the objection from the owner of the site for that house. It also begs the question of why a building further away from this objector's property than that approved house, and partly screened by mature trees, would have a greater adverse impact on his amenity. The owner of the site of permission 12/04544/FUL has also objected to possible loss of daylight and sunlight but given the presence of mature trees both between his site and the proposed lodge and in the wider area, and the distance/height ratio (distance between the 2 buildings/height of lodge in relation to reference height above floor level in approved house) it is not considered that the lodge would have any material new impact on the daylight and sunlight reaching the new house. In conclusion, therefore, on the issues of residential amenity and character relating to LDP Policies 2, 3 and 5, it is considered that the proposed development complies with the Development Plan.

The possibility of the accommodation being used as a permanent dwelling can be dealt with by an occupancy/use condition. Any subsequent application to set the condition aside, so as to permit use of the accommodation as a dwellinghouse, would be dealt with on its own merits.

In relation to access and parking Transport Planning's advice is that the hotel meets the parking and waste guidelines, the access is adequate although not ideal as visibility is restricted downhill from the hotel, but as it works at the moment and balanced against the cost of altering the stone wall and bank against the amount of traffic one (or two) chalets will generate, it would be unreasonable on traffic grounds to insist on anything more than surfacing of the first 6 metres of the access. The applicant's proposal to widen the access is fundamentally an attempt to address concerns arising from the boundary disputes and the erection of a fence which has created a pinch point in what was originally a common access serving the hotel, Ossian Cottage and Stables Cottage.

The amended access is the aspect of the development (as amended) which would result in tree loss. The Forestry Officer's comments relate to the application as initially submitted; the reduction in the number of units to one and its relocation adequately safeguard the trees on the north-east boundary. Although the applicant has concerns about the health and condition of other trees shown as to be removed they are not directly affected by the lodge and the applicant understands that his concerns need to be addressed via a separate application for consent to fell under the Tree Preservation Order regulations.

The loss of a small number of the mature pine trees at the entrance to the hotel will have some negative impact on the character of the area but is limited by being right at the narrowest end of the tree belt on the embankment above The Brae. On this basis it is concluded that the proposal will not materially offend LDP Policy 5. This loss must be balanced against the improved quality of access which would be delivered. As the desire to widen the access arises from the neighbour's erection of the fence splitting the existing driveway, it is entirely possible that it would have been proposed independently of this application simply to allow the existing hotel to operate safely and effectively. It is concluded that the access and parking arrangements meet the relevant test of LDP Policy 3. One objector has expressed concern about access possibly being taken via another route but such a proposal does not form part of this application. Since this hypothetical alternative access would not be directly to a classified road, though, and would therefore normally be "permitted development", a condition withdrawing these p.d. rights would be prudent.

The bin stance which is the subject of concerns expressed by contributors and the Forestry Officer appeared on the original site layout but has disappeared from subsequent revisions. It could not be sited where originally proposed due to the amended access proposals. Any kind of permanent structure or constructed hard standing could certainly be harmful to visual amenity and result in damage to trees and a condition requiring submission of details of any such works, and directing their location to a less prominent position, would be advisable.

The applicant has indicated in one of his responses to objections that he intends to connect the proposed development directly to the public sewer via a new pipe running round the front of the hotel. This would seem to address the concern expressed by the neighbour about the capacity of the existing sewer pipe to accommodate the additional waste from the proposed development.

8.5 Other Considerations – not material

One contributor referred to possible fire risk from recent development. This is a matter which would have been considered by building standards when a warrant was granted for that development. It has no material bearing on the current application proposal.

Some contributors suggest that there is no evident need for this development as the conversion of the hotel to self catering units is not yet complete. It would not be competent to refuse planning permission or to decline to determine the application on such grounds.

8.6 Matters to be secured by Section 75 Agreement

None

9. CONCLUSION

- 9.1 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. RECOMMENDATION

Action required before decision issued No

Notification to Scottish Ministers No

Notification to Historic Scotland No

Conclusion of Section 75 Agreement No

Revocation of previous permission No

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons:

1. Prior to the commencement of any development or other operations details of a stance or enclosure for waste and recycling bins shall be submitted to and approved by the Planning Authority. The stance or enclosure shall not be sited anywhere between the hotel access as reconstructed and The Brae. The approved stance or enclosure shall be completed and brought into use prior to first occupation or letting of the holiday lodge hereby approved.

Reason : In the interests of visual amenity; as these details are no longer specified in the amended plans; and because the location proposed in the plans originally submitted would have resulted in unacceptable harm to visual amenity.

2. No other development shall take place until the hotel access has been reconstructed in accordance with the geometry shown on drawing 000006, with the first 6 metres measured from the road carriageway edge finished in a bituminous macadam surface and positive drainage installed which will ensure that no water discharges onto the public road.

Reason : To ensure that the reconstructed access has no adverse effect on the safety of road users.

3. The development shall be used for holiday letting purposes only and shall not be used as a principal private residence or be occupied by any family, group or individual for more than three months (cumulative) in any one calendar year.

Reason : To ensure that the development does not become used for permanent residential occupation in the interest of the area's visual amenity, in recognition of the lack of private amenity space and in accordance with the use applied for.

4. Waste water from the development shall be routed to the public sewer via a new pipe serving no other buildings or properties and connecting directly to the public sewer.

Reason : To ensure that waste water from the development is discharged without creating or aggravating any nuisance to properties served by existing sewer pipes

5. Notwithstanding the provisions of Article 3 and Classes 7 and 8 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted, with or without modification), and other than as approved as part of this permission, no new vehicle access and /or driveway shall be formed into or within the curtilage of the property without planning permission being granted on application to the Planning Authority.

Reason: To ensure that any such access can be effectively controlled in the interests of visual and residential amenity and road safety.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

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.

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.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS 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/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

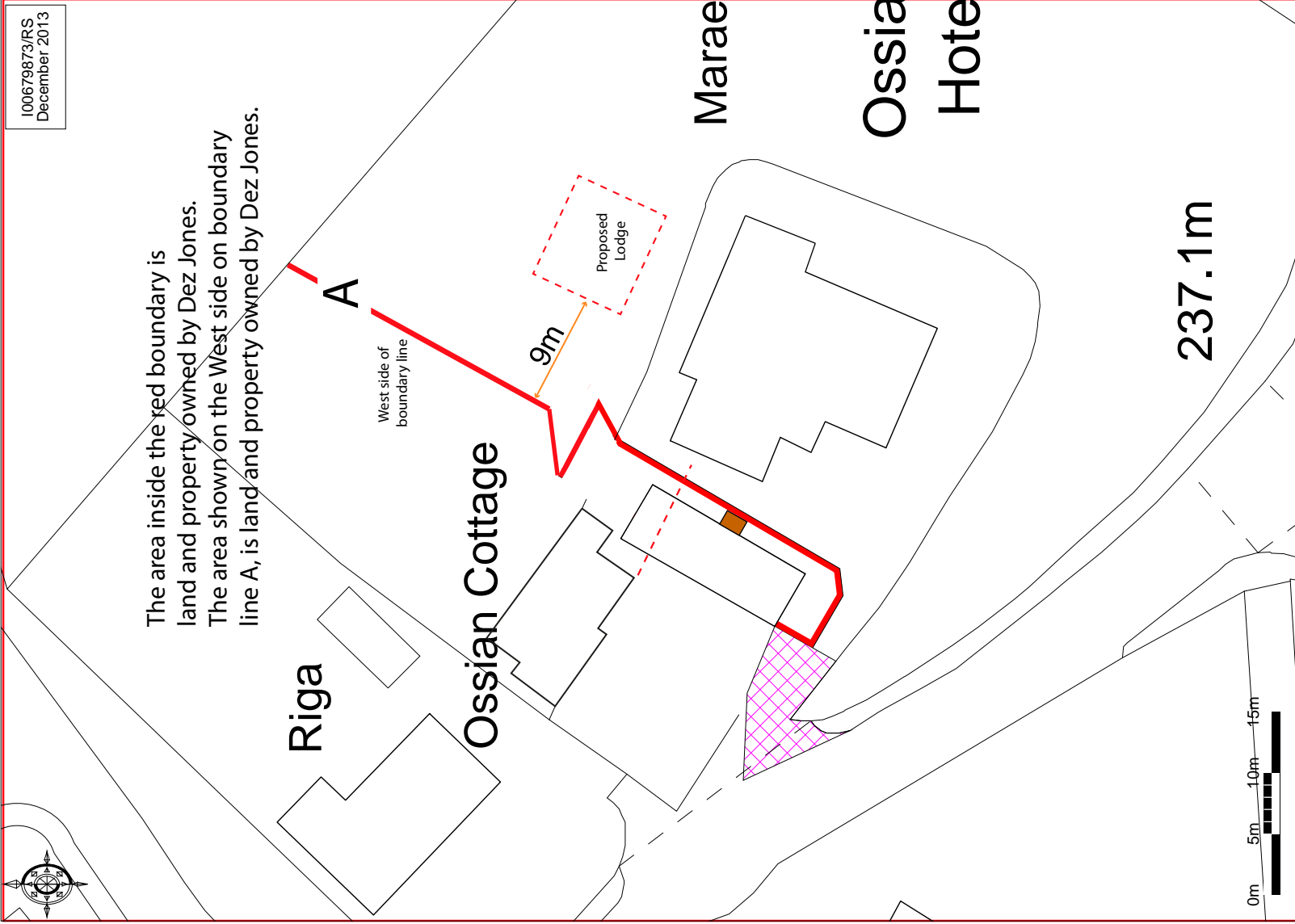
Mud & Debris on Road

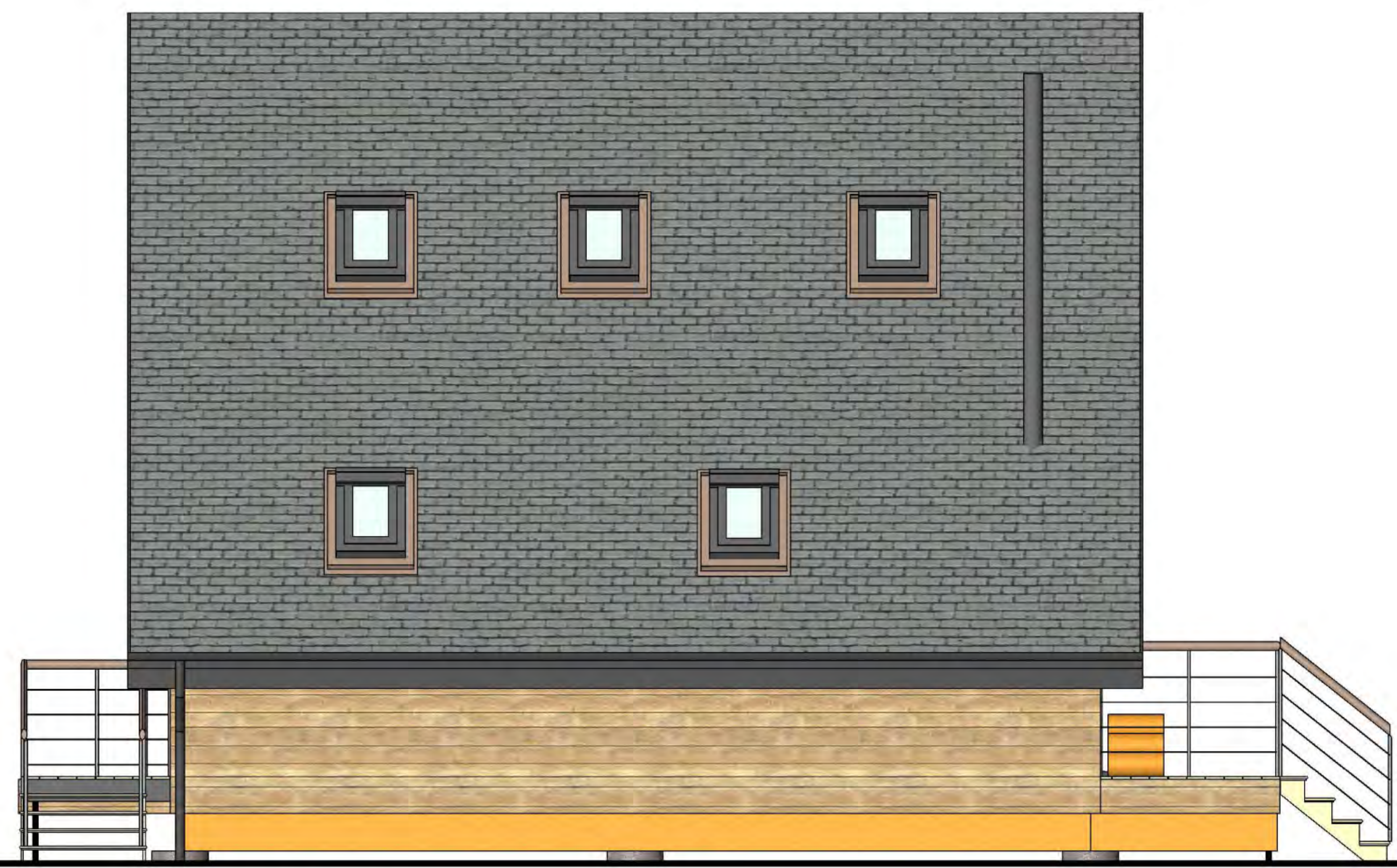
Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on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

Signature: Allan J Todd
Designation: Area Planning Manager - South
Author: Andrew McCracken
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – 000001 Location Plan
Plan 2 – A127 02 Revision C General Plan
Plan 3 – A127 04 Revision C Visual Information
Plan 4 – 000006 Finalised access layout

Ossian

The Brae, Kincaig,
Kingussie PH21 1QD





South North
1 : 50



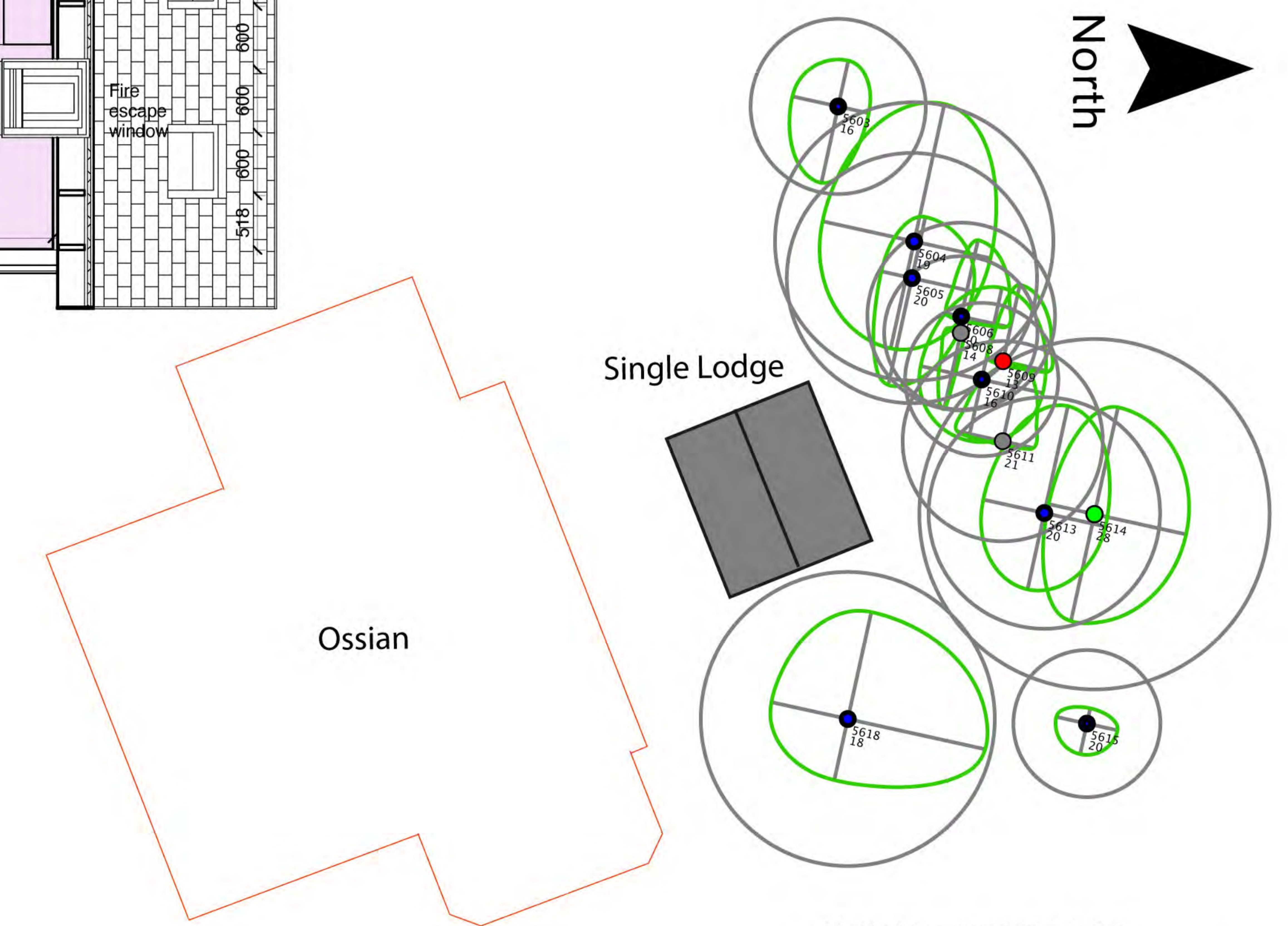
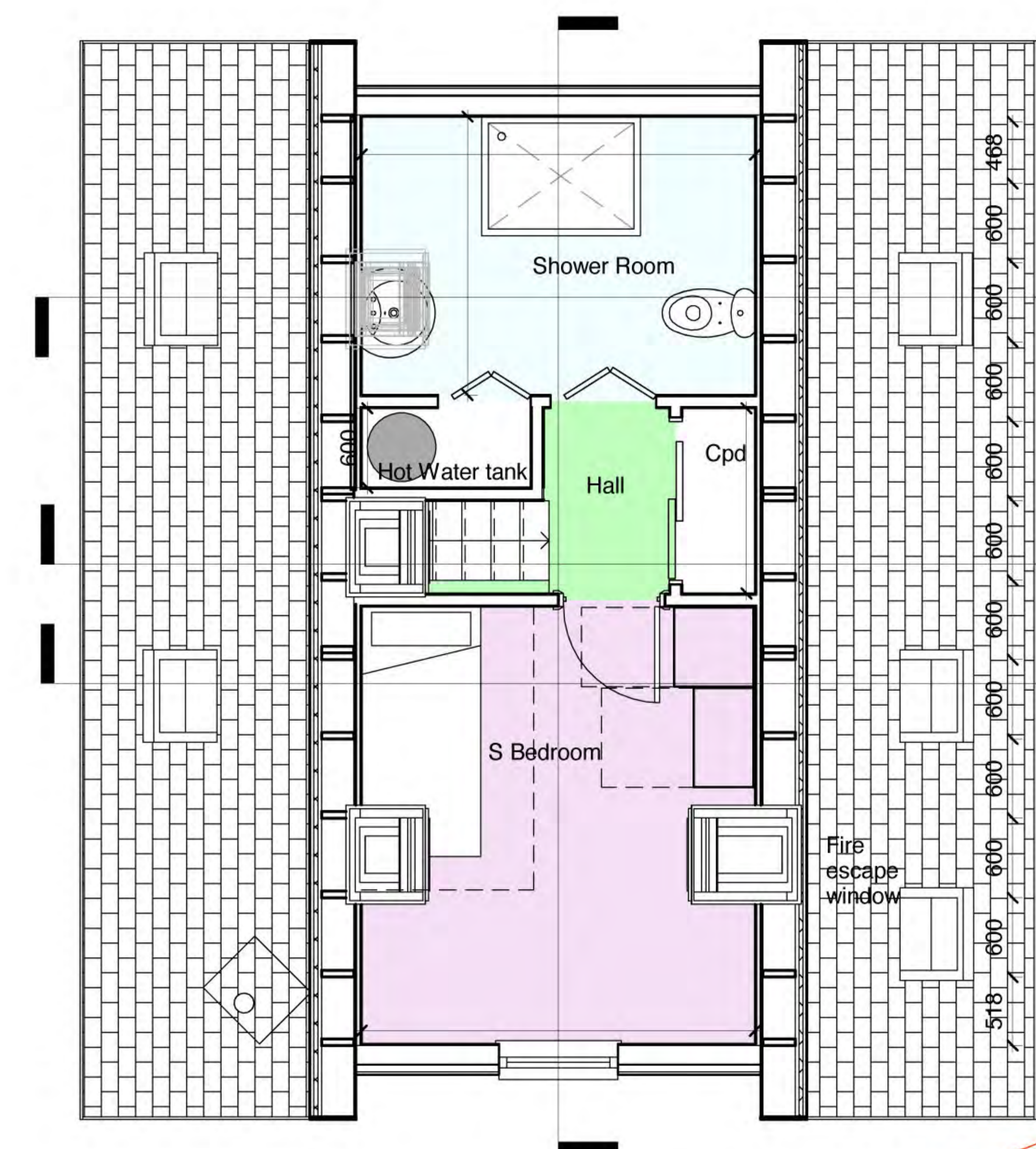
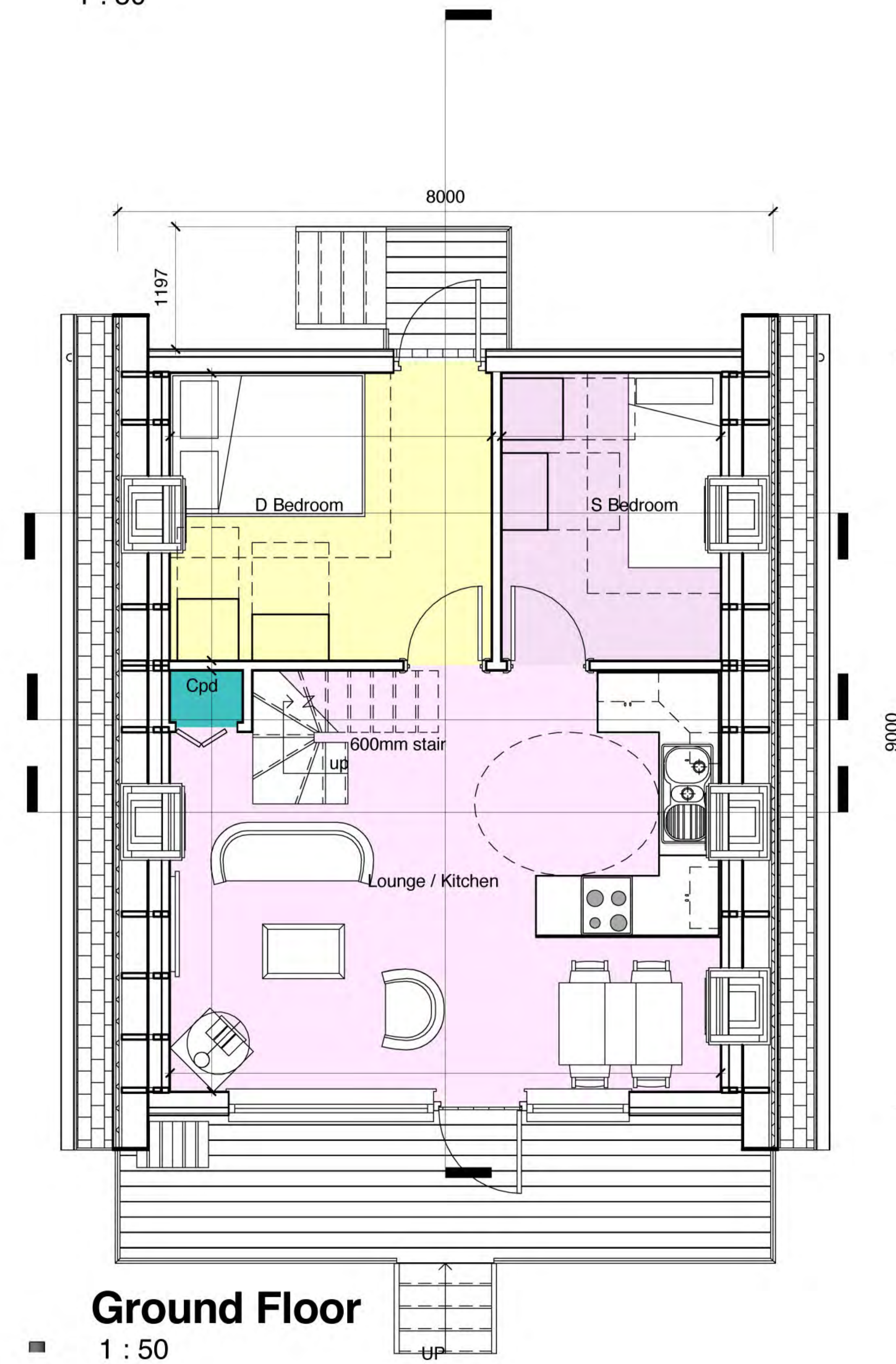
East West
1 : 50



North South
1 : 50



West East
1 : 50



Ossian Lodge Amended to 1 lodge
sited on the old Ossian tennis court
Amended 23rd August 2015

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| 3 Revision C: Rear access alterations 07-03-13 | |
| Job | Proposed Timber Lodges to Land at Ossian Inn, The Brae, Kincaig, Kingussie, PH21 1QD |
| Ref: | A127 02C |
| Date | 23-8-15 |
| Drawn | Proposed Plan & Elevations |
| Stage | Design |
| Client | Mr. T Brown |
| Scale | 1 : 50 |
| Size | A1 |



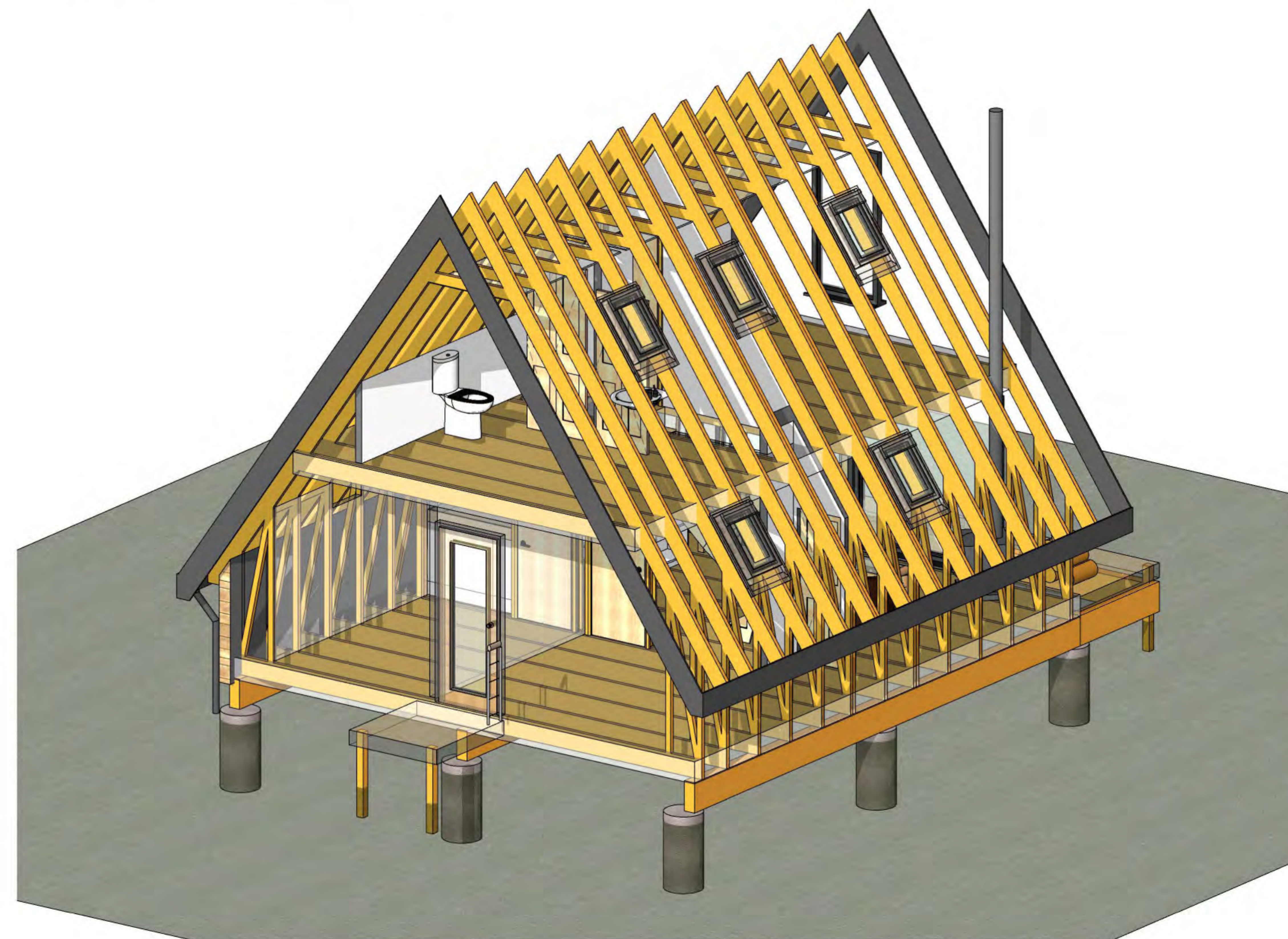
Perspective View Front



Perspective View Rear



Perspective Internal View



Exposed 3D structural View

3 Revision C: Rear access alterations 07-03-13

| | | |
|--------|--|--|
| Job | Proposed Timber Lodges to Land at Ossian Inn, The Brae, Kincaig, Kingussie, PH21 1QD | Ref: A127 04C |
| Date | 23/12/12 | |
| Drawn | Presentation | Matthew Cowan Architecture & Design Services M: 07756 858 814 T: 018581 825 840 MCDAS.CO.UK 11 Marcell Green, Kinrossie Perth, PH24 9RT |
| Stage | Presentation | Scale |
| Client | Mr. T Brown | Size A1 |

