

THE HIGHLAND COUNCIL

**PLANNING APPLICATIONS COMMITTEE –
15 December 2015**

Agenda Item	6.3
Report No	PLN/069/15

**15/03741/FUL : Mr Ross McDiarmid
Land 37M North East Of Glen Falloch, 4 Torvaig, Portree**

Report by Area Planning Manager

SUMMARY

Description : Partial retrospective erection of dwelling house

Recommendation - GRANT

Ward : 11 - Eilean A' Cheò

Development category : Local Development

Pre-determination hearing : N/A

Reason referred to Committee : 5 objections from 5 households

1. PROPOSED DEVELOPMENT

1.1 The application seeks full planning permission for the erection of a 4 bed single storey dwelling house. The application is partially retrospective as the foundations have been dug out and the concrete footings poured. The dwelling will be set to the rear of the existing line of dwelling houses at Torvaig and on a higher level to these houses.

The main rectangular footprint of the dwelling will measure 18m x 8.4m, 3m to eaves and 6m to ridge. The central front projection measures 5.7m x 3.1m with a ridge height of 4.5m. This equates to an overall footprint of 177m².

The proposed dwelling will be finished in painted render walls and natural slate roof. The windows and doors are all to be UPVC.

1.2 No formal pre-application was received for this proposal.

1.3 Access to the site is from the single track township road which runs through Torvaig. There are no public sewers within close proximity of the site, so a private foul drainage system is proposed. A public water supply is likely to be close due to the other development along the road.

1.4 Percolation test results were supplied.

1.5 **Variations:** None

2. SITE DESCRIPTION

2.1 The site is located on the north side of the public road at Torvaig behind the existing line of development and at a higher level. There is a relatively steep slope between the road frontage properties and the application site.

Access to the site is taken from the applicant's existing croft access located at where the road turns sharply towards the south west. The access track runs north east past the proposed site and peters out on the higher rough grazing. Approximately 200 metres to the north east of the site is a ruinous house and fanks.

3. PLANNING HISTORY

3.1 12/04818/FUL Erection of house Permitted under delegated powers
06.03.2013

3.2 15/00208/ENF House not being built in accordance with approved plans

4. PUBLIC PARTICIPATION

4.1 Advertised : Unknown Neighbour 30.10.15

Representation deadline : 30.10.15

Timeous representations : 5 representations from 5 households

Late representations : None

4.2 Material considerations raised are summarised as follows:

- Overlooking neighbouring properties.
- Adverse impact on neighbouring amenity
- Inaccurate drawings.
- Not in line with settlement pattern.
- Wish the house to be built in the originally approved location

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 **Building Standards** : No objection

5.2 **Scottish Water** : Awaiting Comment

5.3 **Crofting Commission** : No Objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012**

Policy 28	Sustainable Design
Policy 29	Design Quality and Place-making
Policy 34	Settlement Development Areas
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

6.2 **West Highland and islands Local Plan 2010**

Policy 1	Settlement Development Areas
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7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not Applicable

7.2 **Highland Council Supplementary Planning Policy Guidance**

Housing in the Countryside and Siting and Design (March 2013)

Access to Single Houses and Small Housing Developments (May 2011)

Sustainable Design Guide (Jan 2013)

7.3 **Scottish Government Planning Policy and Guidance**

PAN 67- Housing Quality

PAN 79 – Water and Drainage

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**

The property falls within the Settlement Development Area for Torvaig and so Policy 34 of the Highland-wide Local Development Plan applies. Policy 34 supports development proposals within Settlement Development Areas if they meet the Design for Sustainability requirements of Policy 28. There is also a requirement to judge proposals in terms of how compatible they are with the existing pattern of

development and landscape character and how they conform with existing and approved adjacent land uses. Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern.

Policy 28 of the Highland Wide Local Development Plan requires sensitive siting and high quality design in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity. Policy 29 of the Highland Wide Local Development Plan repeats this emphasis on good design in terms of compatibility with the local settlement pattern. Policy 61 further emphasises the need for development to respect the landscape character of their surroundings.

Policies 65 and 66 require developments to deal with foul and surface water drainage in a manner which minimises the risk of pollution and flooding.

8.4 **Material Considerations**

Design, Appearance and Landscape Impact

The current planning application is for a dwelling house of identical size and design as the house which was approved previously under delegated powers 12/04818/FUL. The only material difference between the two applications is the location of the house within the site. In this application the house has been relocated 11.6m to the north west of its previously approved position such that the footprints of the two overlap to a small degree.

The construction of this house was started in August 2015 without the benefit of planning permission. Following a complaint by a member of the public, the planning service investigated and it was considered expedient for works on site to be halted through a temporary stop notice under enforcement investigation 15/00208/ENF. So far, only the foundations have been excavated and filled with concrete.

The proposed site is still in the same relative position to the row of roadside properties as the previously approved site. The previous application was considered acceptable in landscape terms because it read as a continuation of the linear roof-scape of the existing road side development. So, it is considered that this application is acceptable by the same reasoning in broad landscape impact terms.

The proposed single storey 4 bedroom house is of a modern design with a footprint measuring 18 x 8 metres, gabled and with a small gabled projecting front extension. Materials are harl under a natural slate roof. The design is simple and generally in keeping with the other house designs in the immediate vicinity.

However, the siting of the dwelling in the previously approved location was decided upon after discussions and site meetings with the planning service and finally located so as to prevent any neighbour amenity issues from overlooking and to screen the longer and medium distances views of the dwelling through the use of a hollow in the landscape.

Disappointingly, the new location of the dwelling house is almost exactly where the previous proposal was negotiated away from. This location has abandoned the small landscape hollow and is positioned instead on the crest of the landscape form. Consequently, it will be much more prominent than previously approved and much more visible from public view and from the rear of the neighbouring roadside properties.

However, within the Torvaig settlement pattern there are a number of other properties in prominent positions and, in medium and long views this proposal will be read as another house sited prominently within the landscape. Undoubtedly, the proposed site is not as acceptable as the approved location due to its prominence and visibility. However, the overall impact of the proposal is not considered to be so harmful as to warrant a refusal.

Neighbour Amenity

The nearest neighbouring property is Glen Falloch which is located to the south east of the proposed house with a separation distance of 42m. There is a steep slope between the two and the proposed dwelling is set at a height of approximately 10m above the height of Glen Falloch. The distance to other dwellings in the roadside row of houses is much greater.

Objections have been received regarding the proposed dwelling house overlooking Glen Falloch and harming its amenity through a loss of privacy. Undoubtedly, the elevated position of the proposed house will give a much greater sense of overlooking than the 40m separation distance would create for properties at similar levels. There is a direct line of sight between the full length windows of the projecting living room of the proposal and the rear kitchen window of Glen Falloch which is considered to result in a particular loss of existing amenity for the property.

That said, it is also recognised that there are a number of mature trees in the rear garden of Glen Falloch and that these provide some measure of privacy for the other living room windows on the rear of the existing house. Even though some of these trees are deciduous, a visual screen would still be provided by the spread of the trees which will obstruct the view from the proposed house into the garden area immediately to the rear of Glen Falloch and limit the sense of overlooking for users of this space.

Although the loss of amenity to the Glen Falloch property is less than it might otherwise be, there will still be parts of the house and a considerable area of the rear garden where the sense of overlooking will be acute and from which a loss of existing amenity is considered likely to result. Without some mitigation to protect the amenity of the occupants of Glen Falloch it is considered that the proposal would have an unacceptable impact on their amenity and would receive an officer recommendation of refusal.

This however can be addressed through the imposition of a condition requiring the erection of a boundary fence/wall in a position and of a height such that it obstructs any views from the main windows of the proposed property down into the rear of the Glen Falloch property. Given the distance, change in levels and gradient it is considered a one metre high fence/wall will provide effective screening to ensure the privacy and amenity of adjoining residents is not impaired.

8.5 Other Considerations – not material

- Accuracy of previous delegated report.

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 N

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

1. No further development or work shall take place until full details of a boundary fence/wall on the west side of the site between the proposed house and the property known as Glen Fallach have been submitted to and approved in writing by the Planning Authority. The submitted details shall show a fence/wall of no less than 1m in height and positioned no less than 5.5m from the westernmost elevation of the approved dwelling house.

Reason : In order to safeguard the amenity of neighbouring properties and occupants

2. No occupation of the dwelling hereby approved shall take place until the fence/wall scheme required by condition 1 above has been fully implemented in accordance with the approved details. Thereafter the fence/wall shall be retained in its approved form in perpetuity.

Reason : In order to safeguard the amenity of neighbouring properties and occupants

3. No other development shall commence until the site access has been constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments:

- i. the junction formed to comply with drawing ref. SDB1 ; and
- ii. visibility splays of 75 m x 2.4 m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

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

4. No further development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.

Reason : To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and out with the application site, is provided timeously.

5. Notwithstanding the provisions of Article 3 and Classes 1, 2 and 3 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), no development of a type identified in the aforementioned classes shall take place within the curtilage of the dwelling house hereby approved without planning permission being granted on application to the Planning Authority.

Reason : Reason: In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

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.

FOOTNOTE TO APPLICANT

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. 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 notice referred to is attached to this decision notice for your convenience.

Accordance with Approved Plans and 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 (p.198), 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 and 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 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>

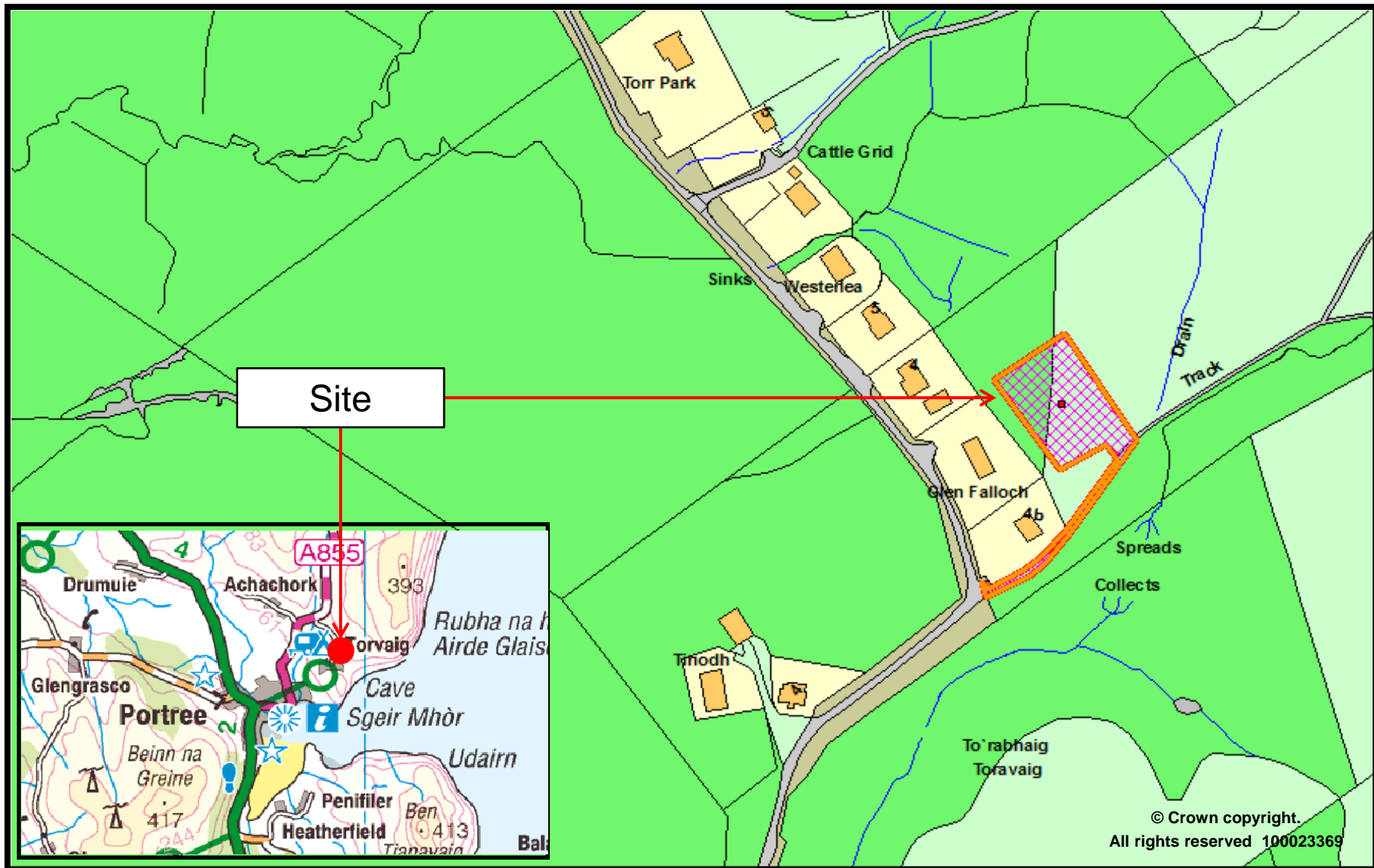
Mud and Debris on Road

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.

Permitted Development Rights

Please note that certain permitted development rights have been removed from the land covered by the permission, as explained in the conditions above. This means that certain developments, for which an application for planning permission is not ordinarily required, will now require planning permission. You are therefore advised to contact your local planning office prior to commencing any future developments.

Signature: Dafydd Jones
Designation: Area Planning Manager North
Author: Mark Harvey/Chris Hallas
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Site Layout Plan
Plan 3 – Floor Plan
Plan 4 – Elevation Plan
Plan 5 – Site Level Plan
Plan 6 – Approved and Proposed Site Layout



The Highland Council
Comhairle na Gàidhealtachd

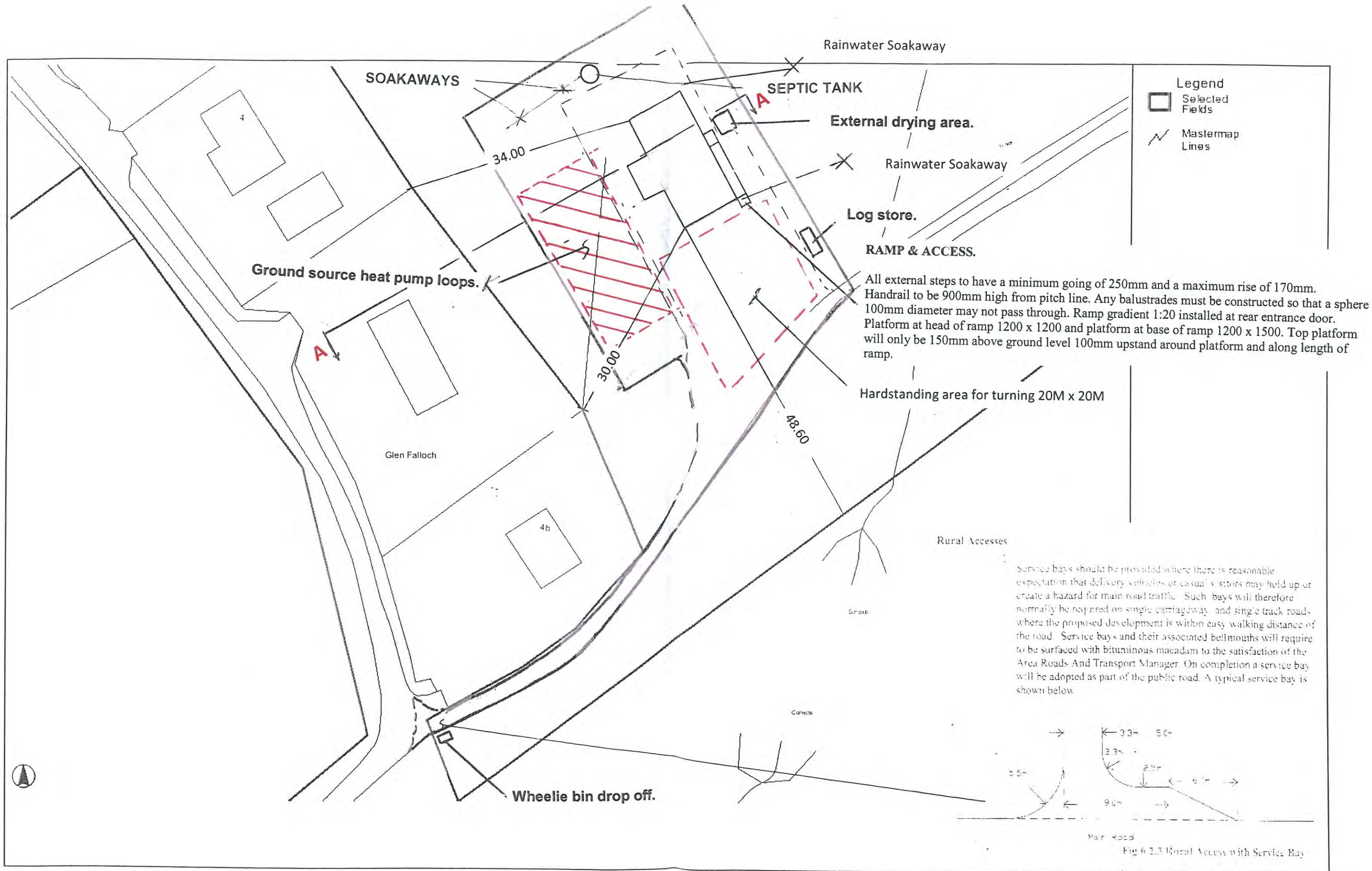
Planning and Development Service

Location Plan
15/03741/FUL

Partial retrospective erection of dwelling house

15th December 2015

Scale:



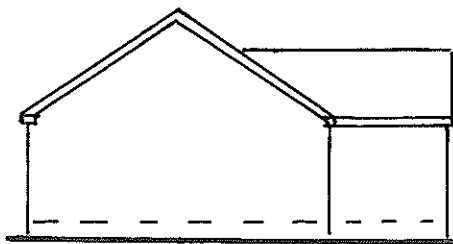
Rev 1 - September 2015 House site moved 11.6 m North west

SITE PLAN SCALE 1:500

Created on: 22 November 2012 at 11:24:10

PROPOSED NEW HOUSE

39m



FFL + 450mm above ground level.

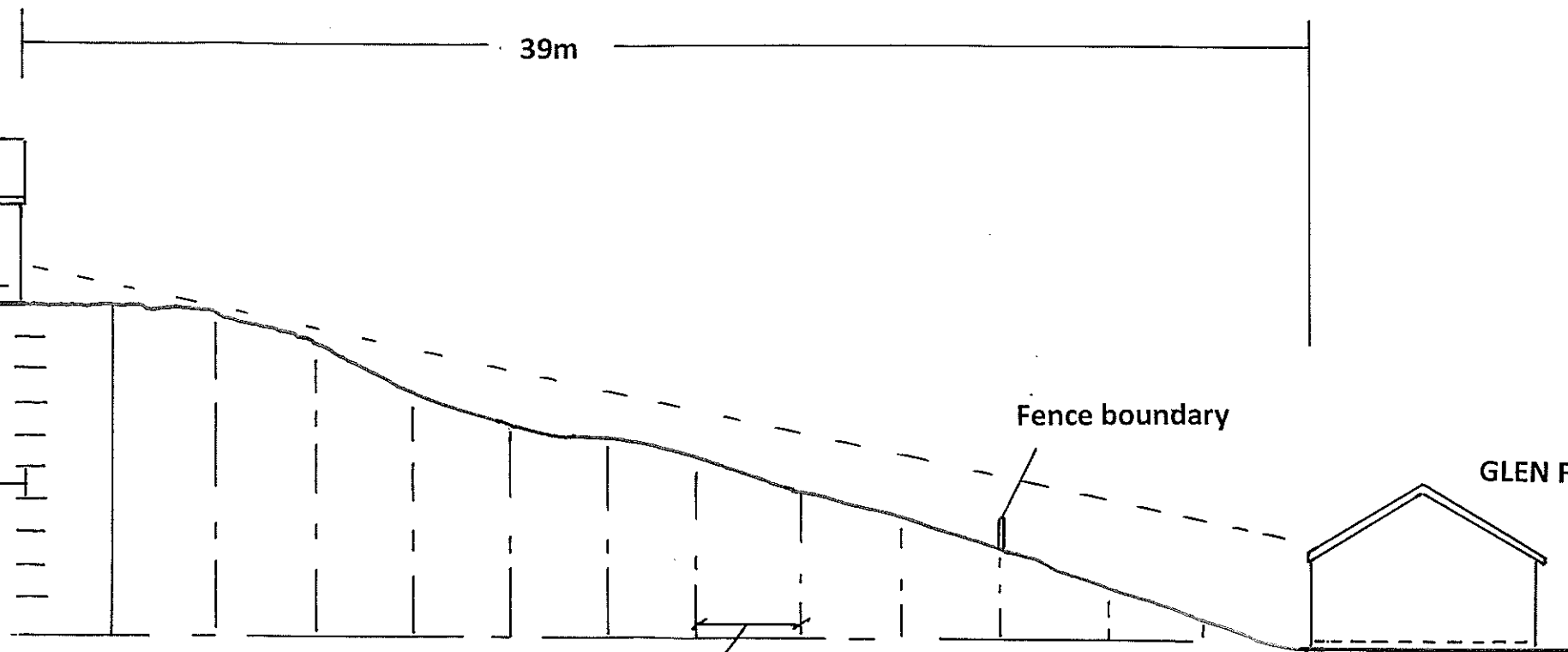
1m drops

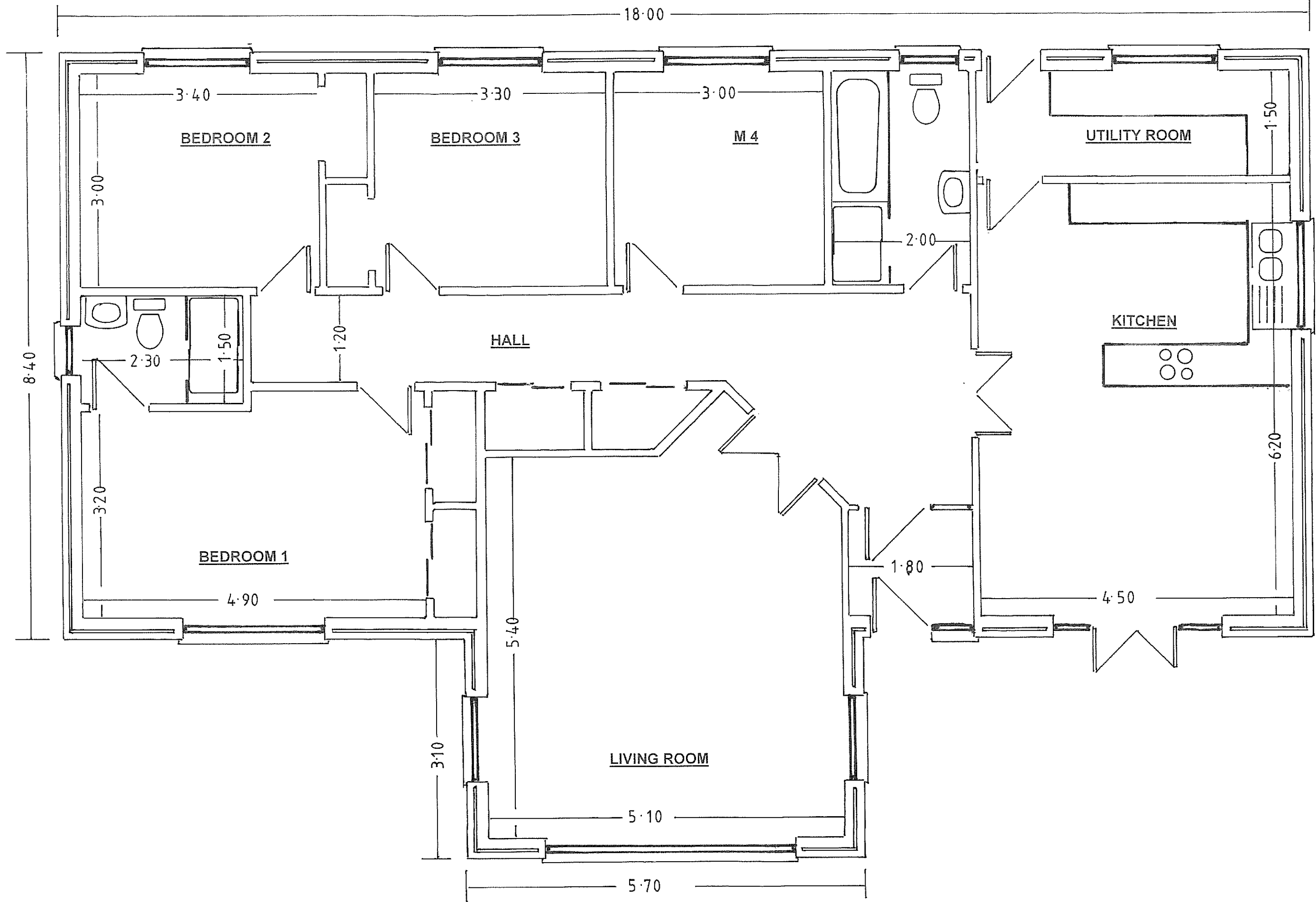
Fence boundary

GLEN FALLOCH

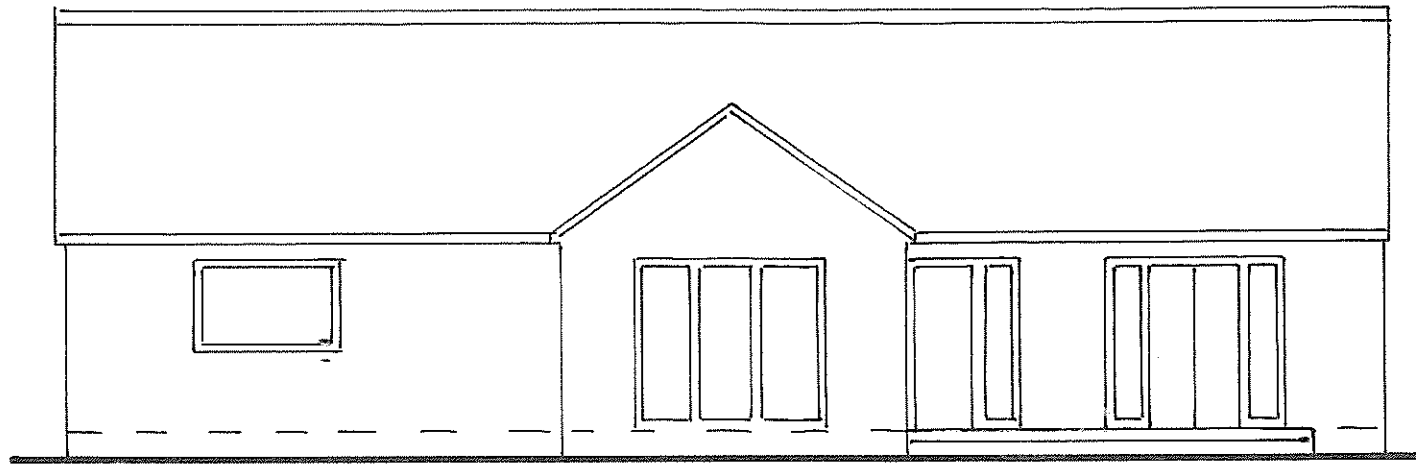
3m Survey points

SECTION A-A SCALE 1-200

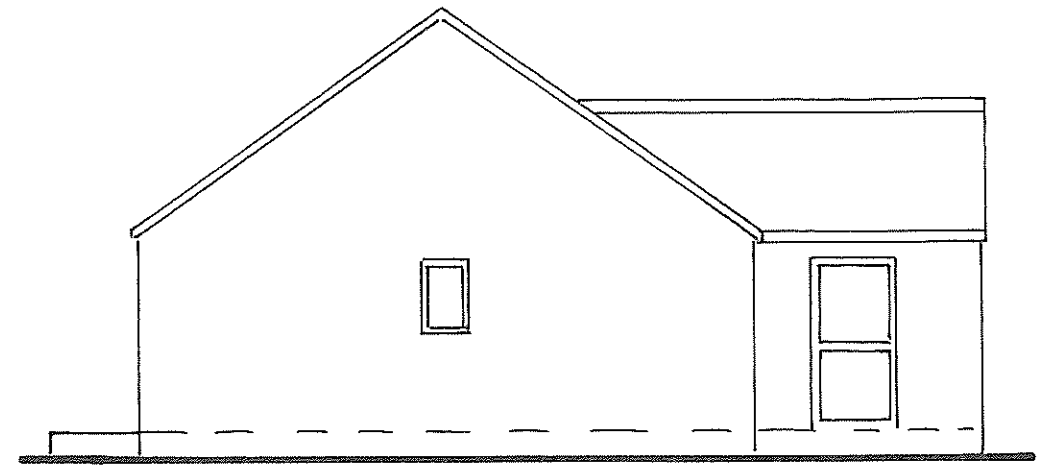




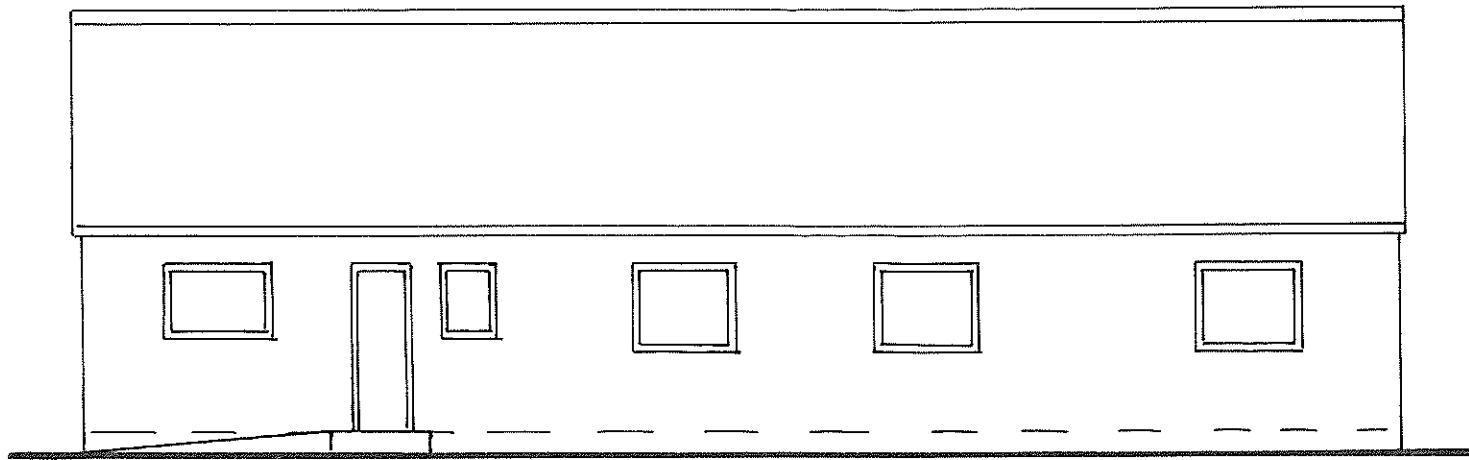
FLOOR PLAN Scale 1:50



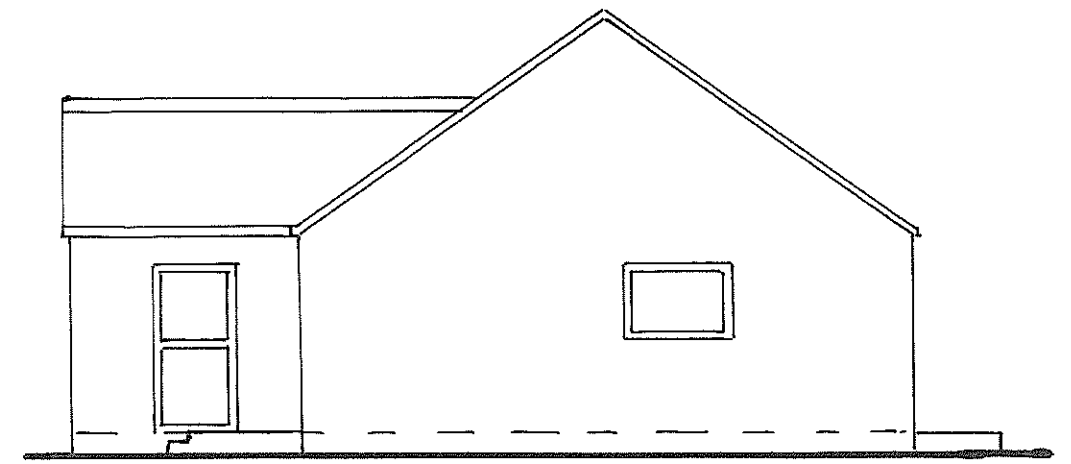
FRONT ELEVATION



END ELEVATION

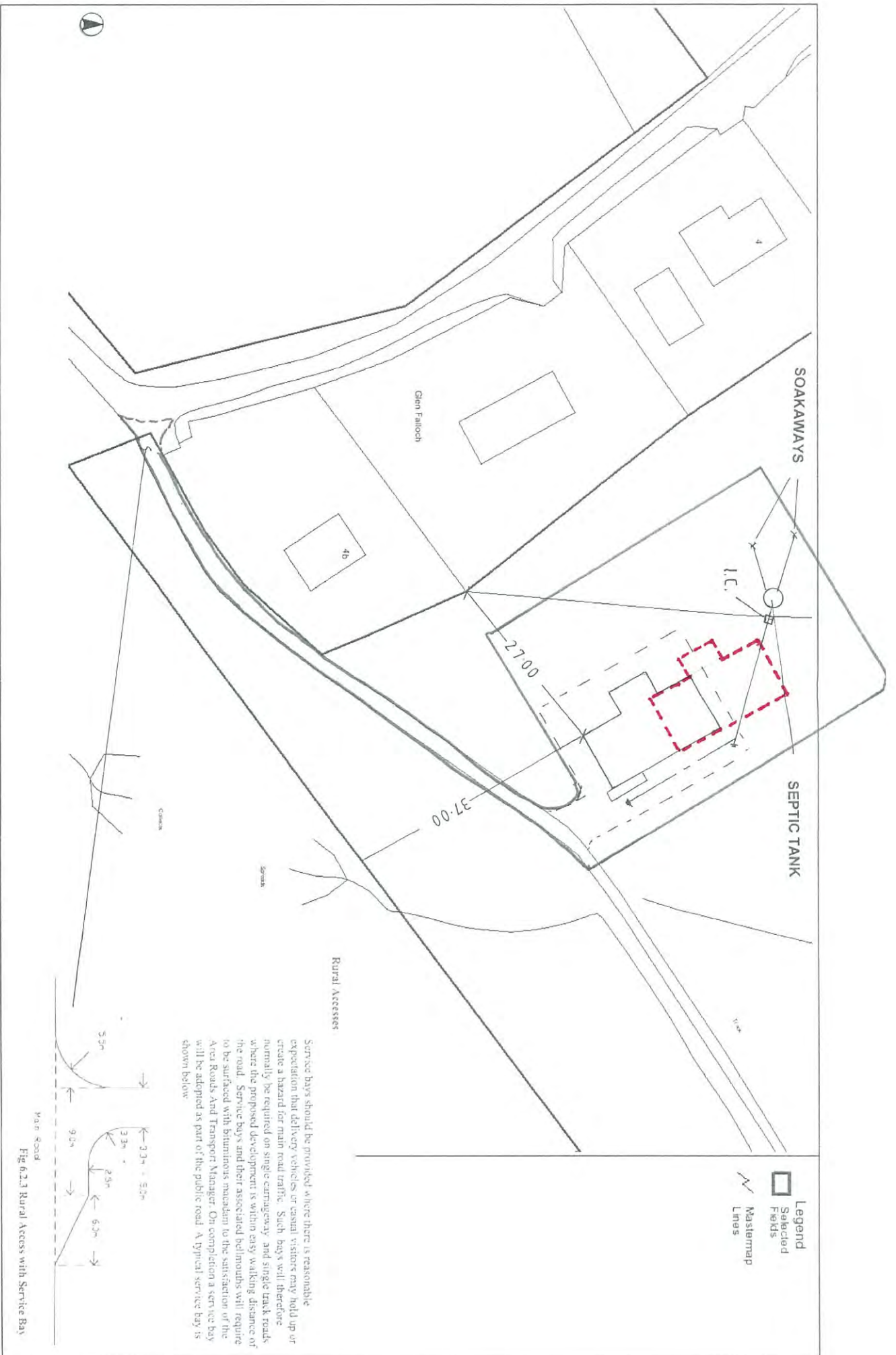


REAR ELEVATION



END ELEVATION

SCALE 1:100



SITE PLAN SCALE 1:500

Service bays should be provided where there is reasonable expectation that delivery vehicles or casual visitors may hold up or create a hazard for main road traffic. Such bays will therefore normally be required on single carriageway and single track roads where the proposed development is within easy walking distance of the road. Service bays and their associated belmounds will require to be surfaced with bituminous macadam to the satisfaction of the Area Roads And Transport Manager. On completion a service bay will be adopted as part of the public road. A typical service bay is shown below.

Fig 6.2.3 Rural Access with Service Bay