

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE –
27 September 2016**

Agenda Item	6.2
Report No	PLS 057/16

15/02020/FUL : Mr J Morris

Land to East Of Station Cottage, Corpach, Fort William

Report by Area Planning Manager – South/Major Developments

SUMMARY

Description: Erection of house

Recommendation - GRANT

Ward: 12 - Caol and Mallaig

Development category: Local Development

Pre-determination hearing: none

Reason referred to Committee: Unresolved objection from a statutory consultee where the objection cannot be addressed by conditions.

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks renewal of full planning permission for the erection of a single dwelling house. The approved scheme is for a 1½ storey, 4 bed, detached dwelling finished with wet dash rendered external walls and natural slate pitched roof. Detailed planning permission was granted subject to conditions for two houses for this and an adjacent site (to the east) in 2012 under planning reference 12/00592/FUL. Residential development at this site was originally established in 1989 with reserved matters obtained in 1990. Planning permission was subsequently renewed in 1994 and granted again in 2006.
- 1.2 No preapplication advice sought.
- 1.3 Access to the two house sites was proposed from an existing private shared access track which serves the Snowgoose Mountain Centre/Bunkhouse and two dwellings and this access has been formed. Connection to the public water supply and public foul drainage is proposed.
- 1.4 Flood risk assessment received 20.08.15, further flood risk assessment received 09.02.16
- 1.5 **Variations:** Amended site layout plan 100 Rev A showing existing and proposed culverting.

2. SITE DESCRIPTION

- 2.1 The application site is the most westerly of two house plots which were granted full planning permission in 2012. The site is accessed via an existing private track which joins the public road to the west. The site is generally level and the access has been extended through this plot to the neighbouring plot to the east and boundary fencing erected. Works have been undertaken onsite to the drainage channels and small watercourse including some culverting. The nearest neighbouring residential property is Glenstrae 25m to the west. The site is bounded by the railway line to the south and vacant land to the north.

3. PLANNING HISTORY

- 3.1 12/00592/FUL : Erection of 2 houses : granted 21.05.12
3.2 05/00188/FULLO : Erection of 2 houses : granted 01.02.06
3.3 LO/94/00516 : Erection of 2 houses : granted
3.4 LO/90/00133 : Reserved matters for the erection of two houses : approved
3.5 LO/89/00532 : Erection of two houses (outline) : granted

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour. Expiry date 18.06.15
Representation deadline : 21.06.15
Timeous representations : 0
Late representations : 0

5. CONSULTATIONS

- 5.1 **Contaminated Land** : No comments or objections received.
5.2 **Flood Risk Management Team** : Objection on grounds of culverting for land gain.
5.3 **Transport Planning Team** : No objection subject to recommended planning conditions as per 12/00592/FUL.
5.4 **Network Rail** : No objection subject to conditions/informative notes to applicant.
5.5 **SEPA** : Objection on grounds of culverting for land gain.
5.6 **Scottish Water** : No response received.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- | | |
|----|-------------------------------|
| 28 | Sustainable Design |
| 29 | Design Quality & Place-making |
| 34 | Settlement Development Areas |

57	Natural, Built and Cultural Heritage
64	Flood Risk
65	Waste Water Treatment
66	Surface Water Drainage

6.2 **West Highland and Islands Local Plan, 2010**

Policy 2 Development Objectives and Developer Requirements

Inset Map 30 Fort William

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Draft Development Plan**

Not applicable

7.2 **Highland Council Supplementary Planning Policy Guidance**

Sustainable Design Guide, January 2013

Flood Risk and Drainage Impact Assessment, January 2013

7.3 **Scottish Government Planning Policy and Guidance**

Scottish Government Planning Policy, June 2014

Policy Principles Para 255. Flood reduction : assessing flood risk and, where appropriate, undertaking natural and structural flood management measures, including flood protection, restoring natural features and characteristics, enhancing flood storage capacity, avoiding the construction of new culverts and opening existing culverts where possible.

Online Planning Advice on Flood Risk, June 2015

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**

8.3.1 **Principle of development**

This application seeks the timeous renewal of detailed planning permission for a new house with a footprint of 12m x 9m within the Fort William Settlement Development Area. This proposal was assessed against the current development plan policy in 2012 and granted in May 2012. There has been no material change in development plan policy since the previous approval. Subject to conditions, the

proposal is considered to meet the requirements of policy 34 : Settlement Development Areas, policy 28 : Sustainable Design and policy 29 : Design Quality and Place Making. The site is located 45m to the north of the Caledonian Canal Scheduled Ancient Monument. Given the scale of proposals and location set at the opposite side of the railway, no significant adverse impact on the built heritage designation is expected.

8.3.2 Flood Risk and Drainage

Permission was granted subject to conditions, including the agreement of a sustainable surface water drainage scheme prior to the commencement of development. Although works commenced on site within the life of the previous planning permission, these were not considered to represent a lawful start as condition 1 of 12/00592/FUL which relates to surface water drainage had not been discharged.

Policy 64 : Flood Risk requires development proposals to avoid areas susceptible to flooding and promote sustainable flood management. Given the undischarged condition relating to drainage and the small watercourses which run through this and the adjacent site (watercourse 1 through this site and watercourses 2 and 3 through the neighbouring site) the Flood Risk Management Team were consulted on this application. The Flood Risk Team advised that SEPA be consulted as the site is adjacent to an area of high coastal flood risk from the canal. In response, a Flood Risk Assessment (FRA) was submitted to determine the sufficiency of the existing and proposed culverting, the capacity of the drainage channels on site and the risk of fluvial flooding from the small watercourses. The Flood Risk Assessment demonstrated that, given the existing site levels, the site was not at risk of coastal flooding.

Scottish Planning Policy on flood reduction requires an assessment of flood risk and adoption of appropriate flood management measures including restoring natural features and characteristics and avoiding the construction of new culverts where possible. Since the original permission works had been undertaken on this and the neighbouring site to culvert and reroute the drainage around the site. The Flood Risk Assessment and amended proposal has resulted in most of the unauthorised works proposed to be removed and the site largely brought back to its original drainage. A small stretch of culvert under the road through each plot has been retained on site.

A small watercourse runs through the site at the western side. The watercourse currently enters the site to the north west and has been culverted under the access road which serves this and the neighbouring site to the east. In accordance with the scheme approved in 2012, the current proposal will route this watercourse through a 22m length of 450mm culvert to connect to the existing 500mm culvert which runs beneath the access road. The Flood Risk Assessment submitted in support of this application has demonstrated that the watercourse including culverts will convey a flow of > 190.7 litres which exceeds the predicted maximum 1 in 200 year flow of 66.3 litres and provides significant allowance for climate change and blockage.

SEPA in their consultation response dated 24.02.16 acknowledge that the FRA demonstrates that the proposed culverts are sufficient to convey the peak flows but advise that, apart from access, watercourses should not be culverted as part of

new development. SEPA highlight Scottish Planning Policy which states that the planning system should promote flood reduction by avoiding the construction of new culverts and existing culverts should be opened where possible. SEPA advise that their objection will only be addressed if the site can be redesigned so that the watercourse is left unculverted and a 6m buffer can be accommodated between the top bank of the watercourse and any built development. SEPA acknowledge that based on the drawings provided this does not appear possible. SEPA advise that any proposal to culvert for land gain would require a simple licence from SEPA under The Water Environment Controlled Activities Regulations (CAR) and based on the information provided it is not clear whether the proposals are capable of being authorised.

The Council's Flood Risk Management Team in their response of 09.03.16 advise that following review of the updated FRA they are satisfied that the culvert under the railway is sufficient to convey the flows of the unnamed watercourses. However, as the proposal for plot 1 seeks to culvert the watercourse for land gain, the objection to the proposal for plot 1 remains and it is considered the site is unsuitable for development due to the presence of the watercourse. The Flood Risk Team highlight Scottish Planning Policy which states that "the planning system should promote avoiding the construction of new culverts and opening existing culverts where possible."

SEPA and the Flood Risk Team highlight the existing policy requirements and adopted supplementary guidance which presume against culverting for land gain to facilitate development. However, consideration has to be given to the planning history and the detailed planning permission which was granted in 2012 for this site. Both SEPA and the Flood Risk Team acknowledge that given the site constraints it is unlikely that their objections could be overcome. The Flood Risk Assessment has demonstrated that the scheme approved under 12/00592/FUL which includes culverting the watercourse is capable of conveying peak flows and flood risk would be managed at this site. Policy 64 : Flood Risk states that where flood risk management measures are required, natural methods should be incorporated or adequate justification should be provided as to why they are impracticable. Scottish Planning Policy states that the construction of new culverts should be avoided where possible, however, in this instance, given the size and layout of plot it is considered there is no viable alternative.

It has been demonstrated that the site will not be at risk of flooding and the only material matter is culverting for land gain. It is acknowledged that the local and national policy has changed in the intervening period in response to flood management and the Planning Authority would not generally support culverting for land gain. In this case, on balance, taking into account the findings of the flood risk assessment, that the proposal is to reinstate much of the previous culverting, the site constraints and the site history, a minor departure from adopted planning policy is recommended in this instance and renewal of detailed planning permission granted, subject to conditions in line with those previously imposed.

However, as an objection has been lodged by SEPA regarding flooding issues, the application will require referral to Scottish Ministers for a final decision.

8.4 **Other Considerations – not material**

None

8.5 **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.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

10. RECOMMENDATION

Action required before decision issued Y

Notification to Scottish Ministers	Y	Outstanding objection from SEPA regarding flood risk
Notification to Historic Scotland	N	
Conclusion of Section 75 Agreement	N	
Revocation of previous permission	N	

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

1. Notwithstanding the provisions of Article 3 and Classes 1A, 1B, 1C, 3A and 3B 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 house hereby approved without planning permission being granted on application to the Planning Authority.

Reason : To protect amenity and avoid an over development of the site; in accordance with policy 28 of the Highland wide Local Development Plan, 2012.

2. All measures to mitigate flooding, as shown on the approved plans and detailed in the supporting Flood Risk Assessment and Drainage Statement, shall be constructed in full and brought into use prior to the first occupation of the development. Thereafter, these measures shall be maintained in perpetuity. For the avoidance of doubt, the finished floor level of the house hereby approved and surrounding ground levels shall be set as shown on the approved site layout plan

15-045 100 Rev A received on 20.08.16. to the satisfaction of the planning authority.

Reason : To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously; in accordance with policy 64 of the Highland wide Local Development Plan, 2012.

REASON FOR DECISION

The proposals represent a minor departure from the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

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 and those approved under 12/0592/FUL. 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.

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.

Shared Access and Services

Appropriate legal provision should be made regarding the right to use the shared access and the future maintenance of the shared access.

Flood Risk

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

CAR Licensing

Please be advised that you will require separate consent from the Scottish Environment Protection Agency (SEPA) to culvert the watercourse at this site. 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).

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.

Public Services

You are advised that public services may cross the site and you must ensure that you have all the necessary consents prior to any works being carried out on site which may affect these services.

Network Rail

Please be advised that construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development. Details of changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for

booking of 20 weeks.

Network Rail Asset Protection Engineer 151 St Vincent Street, GLASGOW, G2
5NW

Tel : 0141 555 4087 Email : AssetProtectionScotland@networkrail.co.uk

All or part of this land was previously owned by Network Rail, or its predecessors and title obligations may exist that require development consent to be obtained from Network Rail. No building works may commence until such consent has been confirmed. This must be obtained by the applicant outwith the planning process. The developer must contact our Asset Protection Engineer regarding this matter.

Construction Hours & Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended). Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

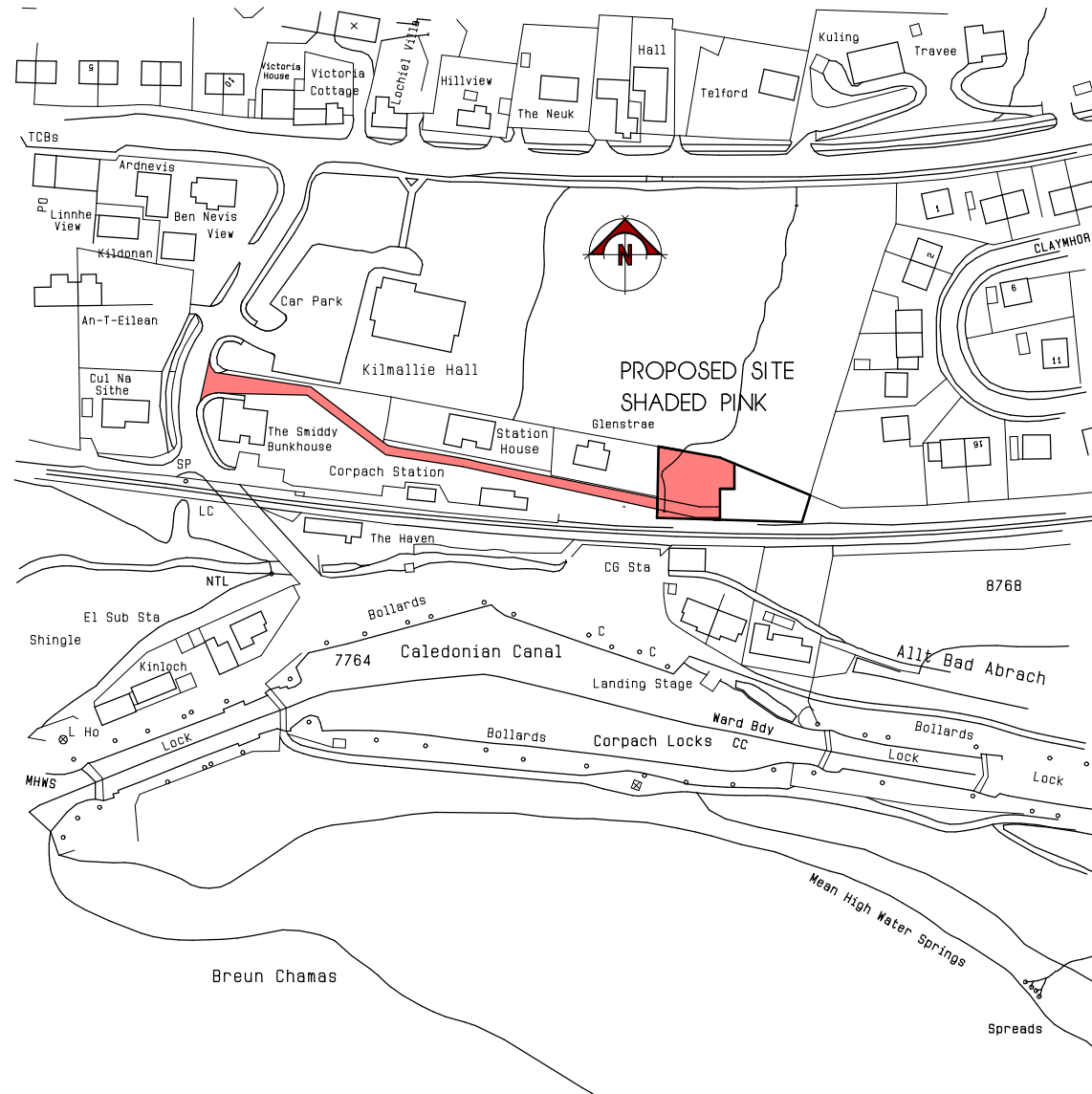
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits.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

Protected Species - Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species
Protected Species - Contractors' Guidance You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Signature: Nicola Drummond
Designation: Area Planning Manager – South/Major Developments
Author: Christine Millard
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Floor Plan
Plan 3 – Elevation Plan
Plan 4 - Proposed Site Plan

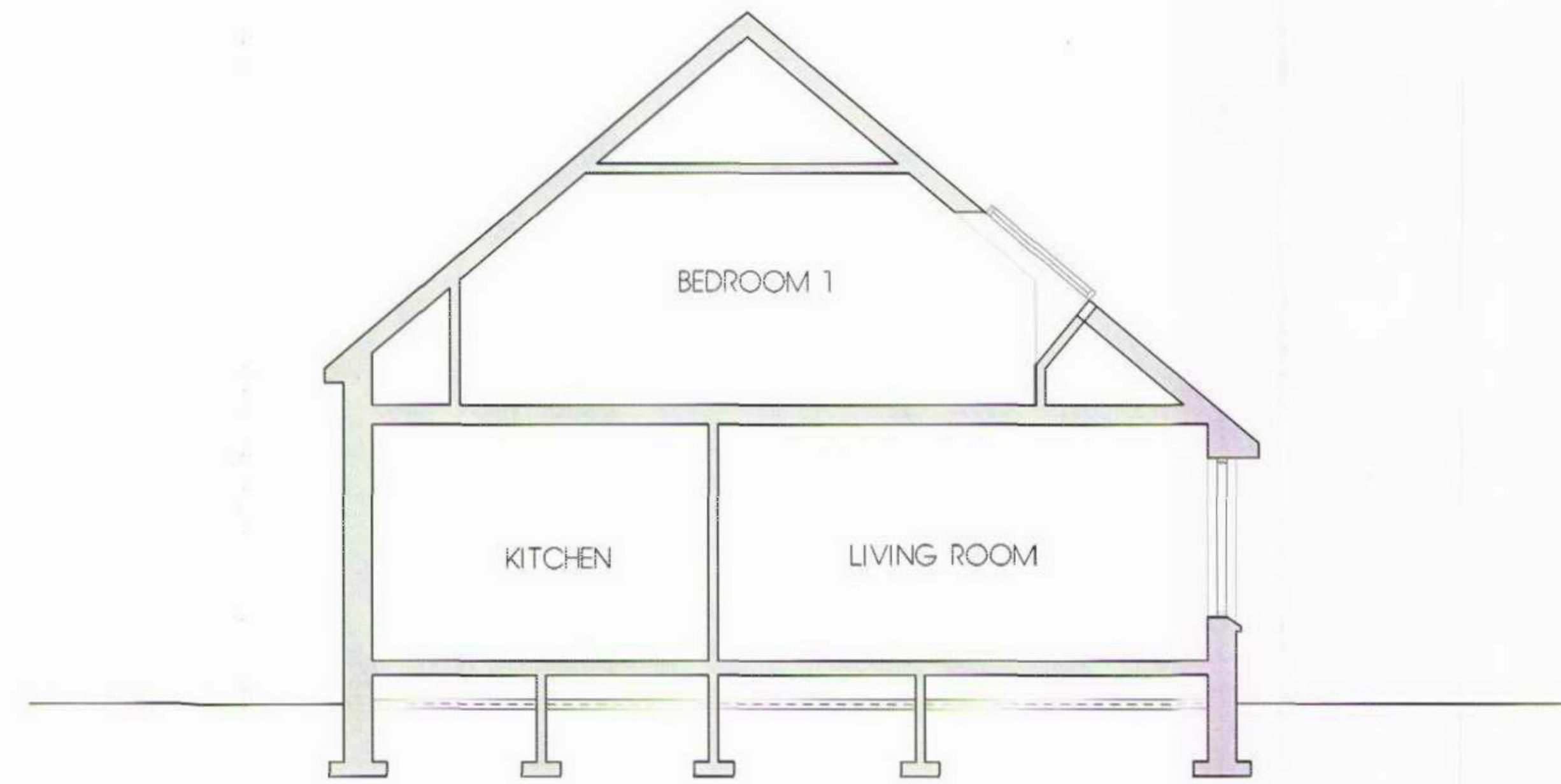
PROPOSED DWELLING HOUSE AT CORPACH, FORT WILLIAM



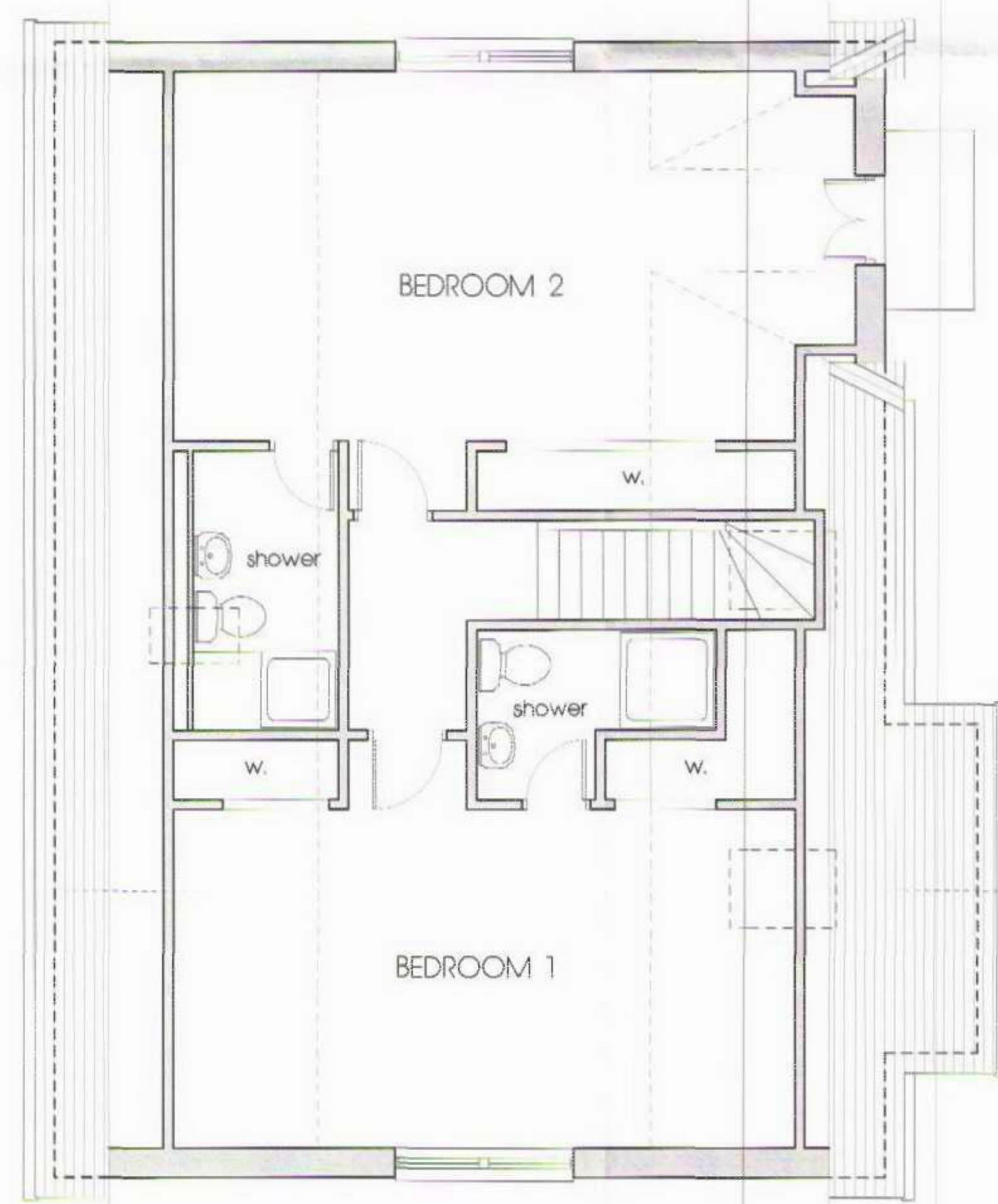
LOCATION PLAN

scale = 1: 2500

Note:
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.
 Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.
 This drawing is copyright and all rights are reserved. No unauthorised copying of this drawing is permitted.



SECTION XX



FIRST FLOOR PLAN

floor area = 68.02 sq. m.



GROUND FLOOR PLAN

floor area = 86.77 sq. m.

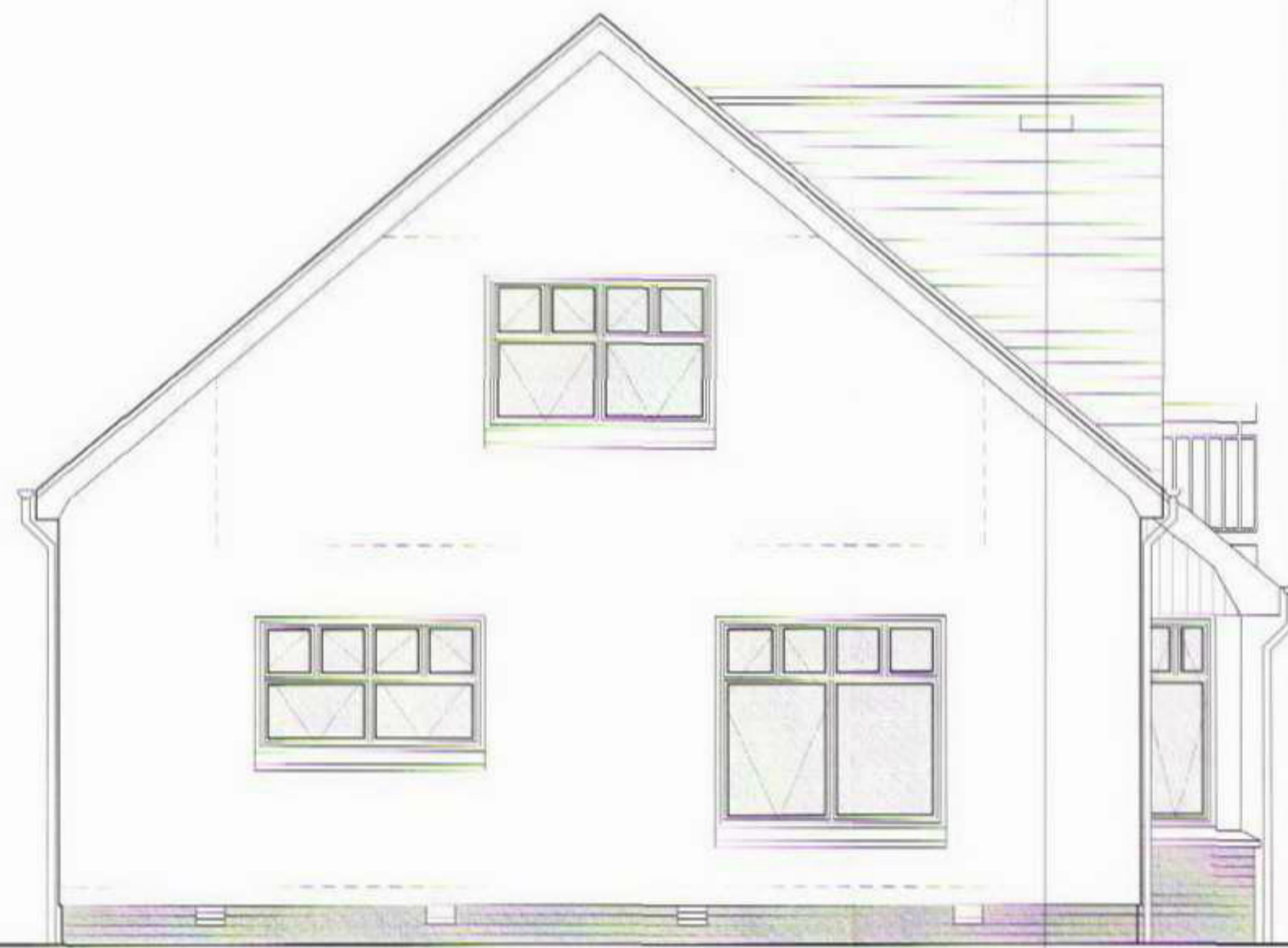
RECEIVED
 15 FEB 2012
 OPERATIONS SUPPORT TEAM

project	PROPOSED DWELLING HOUSES AT CORPACH, FORT WILLIAM		
client	3 IN 1 PROPERTY LTD.		
detail	DESIGN SKETCH - FLOOR PLANS & SECTION		
DKD D KELLY DESIGN Architectural Consultant			
Queen Anne House 111 High Street Fort William PH13 6DG Tel: 01397 700999 Fax: 01397 700888 Email: duncan@dkellydesign.freeserve.co.uk			
scale	1:50	date	13: 02: 12
job no	12/015	dra no	102
		drawn	D. KELLY

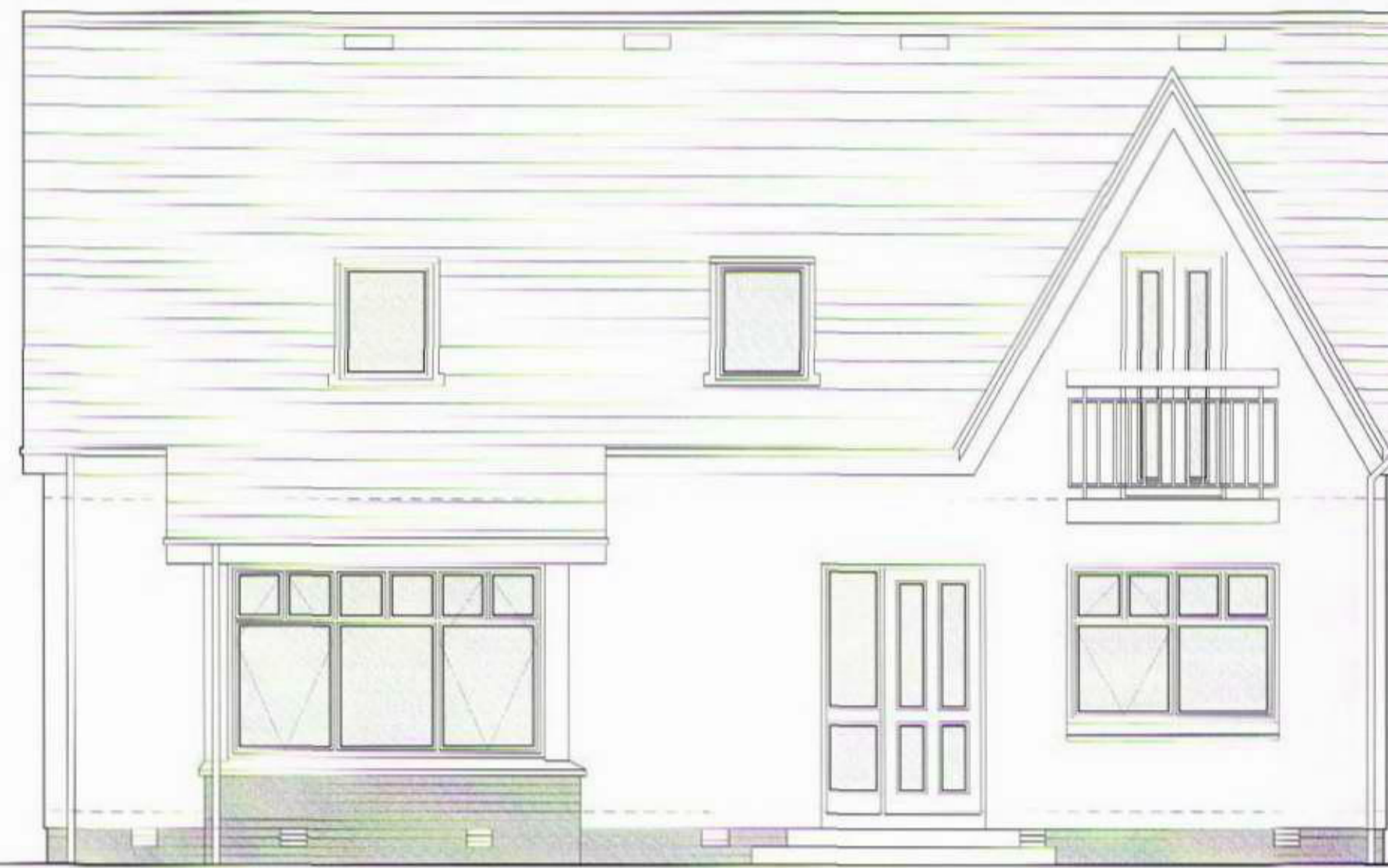
Note
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.

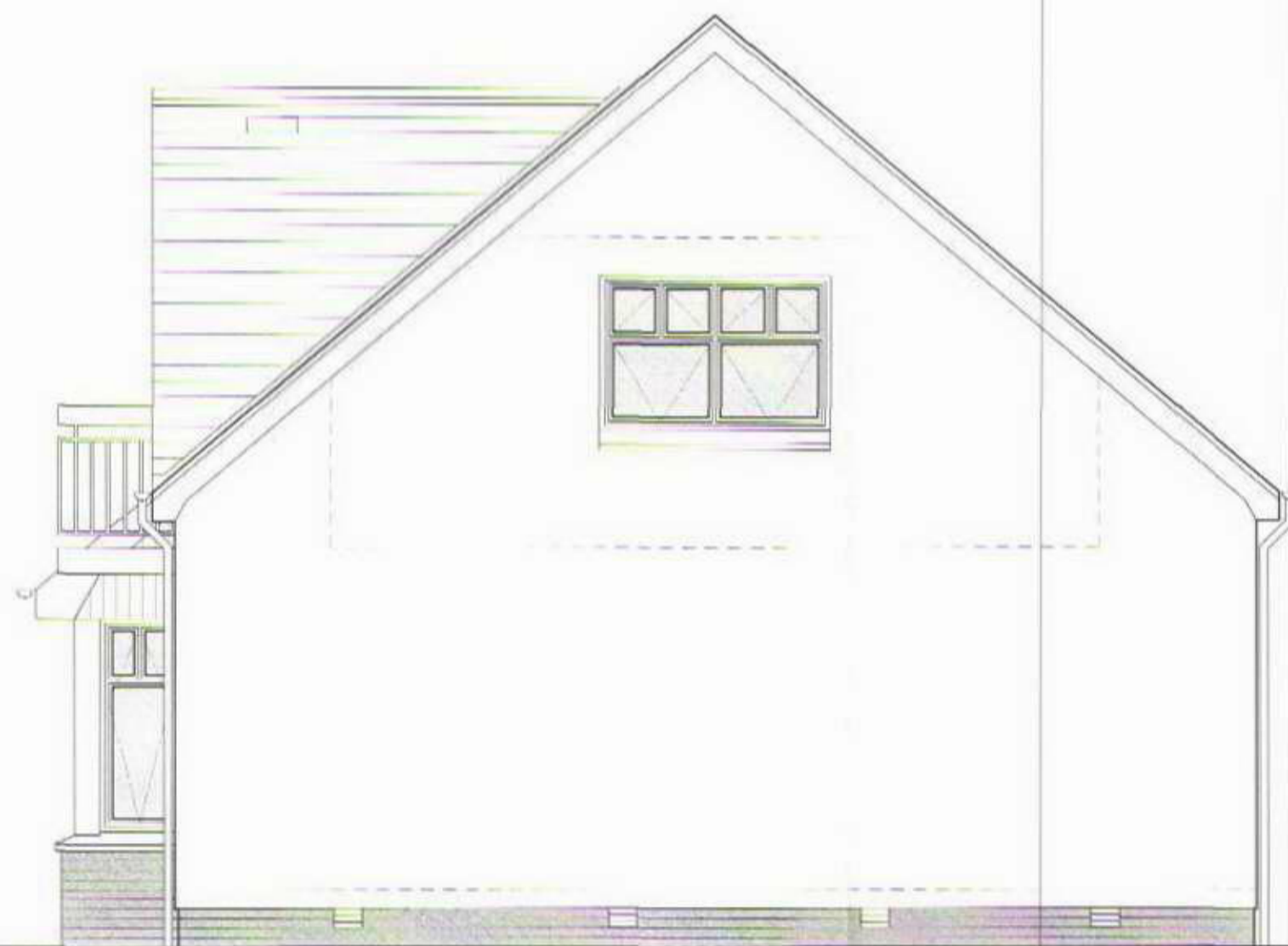
This drawing is copyright and all rights are reserved. No unauthorised copying of this drawing is permitted.



SIDE ELEVATION

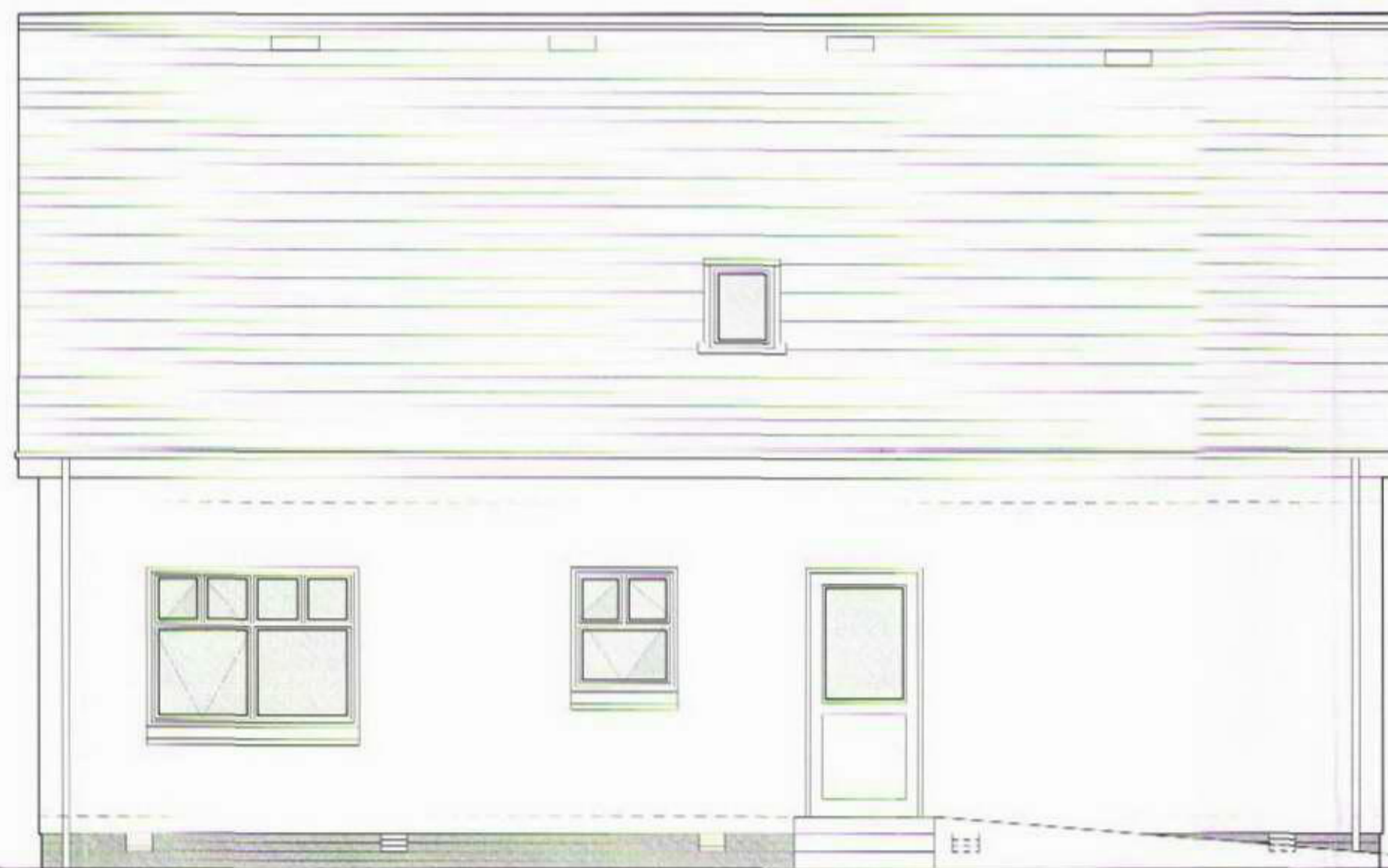


FRONT ELEVATION



SIDE ELEVATION

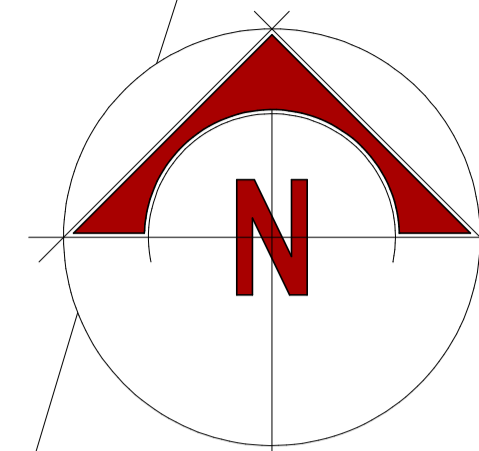
- CONCRETE RIDGE TILES
- NATURAL SLATE
- PVC BROWN UP FASCIA BOARD
- PVC DOWNPIPE
- WET DASH FINISH
- FACING BRICK BASECOURSE



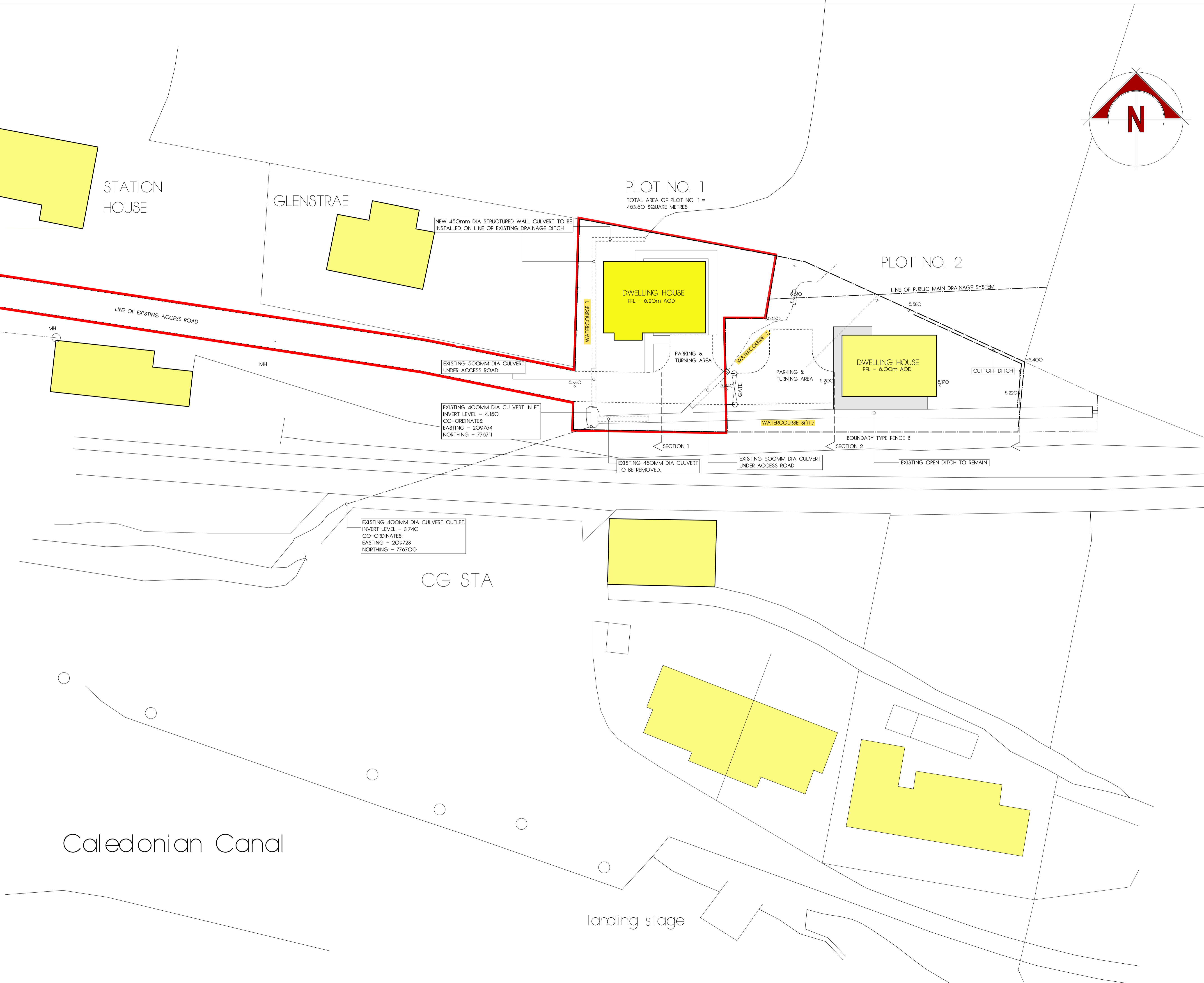
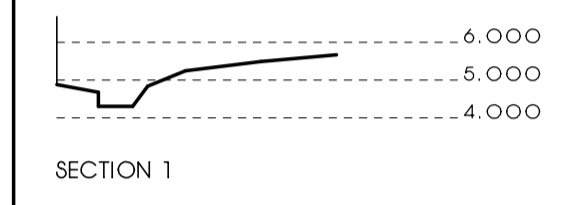
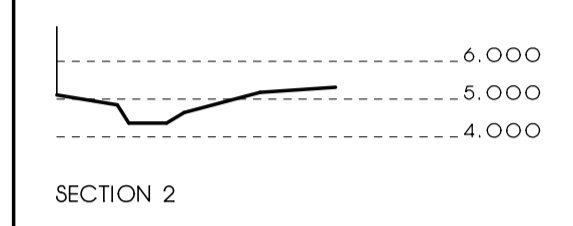
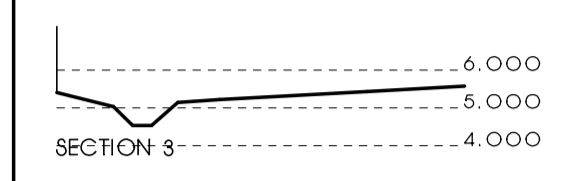
REAR ELEVATION

RECEIVED
 15 FEB 2012
 OPERATIONS SUPPORT TEAM

project	PROPOSED DWELLING HOUSES AT CORPACH, FORT WILLIAM		
client	3 IN 1 PROPERTY LTD.		
detail	DESIGN SKETCH - ELEVATIONS		
DKD D KELLY DESIGN Architectural Consultant			
Queen Anna House 111 High Street Fort William HI33 6DS Tel: 01397 700999 Fax: 01397 700886 Email: duncan@dkellydesign.freemove.co.uk			
scale	1:50	date	13/02/12
job no.	12/015	drg no.	103
		drawn	D. KELLY



Note
 The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.
 Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.
 This drawing is copyright and all rights are reserved. No unauthorised copying of this drawing is permitted.



project
 PROPOSED DWELLING HOUSE AT PLOT 1, CORPACH, FORT WILLIAM

client
 MR. J. MORRIS

detail
 SITE PLAN



Queen Anne House • 111 High Street
 Fort William • PH33 6DG
 Tel: 01397 700999 • Fax: 01397 700888

scale 1:200 date 20.05.15

job no. 15/045 drg no. 100 B drawn D. KELLY