

Agenda Item	5.7
Report No	PLN 008/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 23 January 2018

Report Title: 17/05345/FUL: Mr Neil Maclean
Land West of Eight Acres, Smithfield, Culbokie

Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Erection of house and formation of new access.

Ward: 09 – Black Isle

Development category: Local Development

Reason referred to Committee: Community Council objection

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

Recommendation

Members are asked to agree the recommendation to grant as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks consent for a detached single storey house with integral garage. The house is to be finished in a mix of timber cladding and white render, with the roof finished in grey tiles. The house has a linear shape stretching north-south with two projecting gable features at either end. Some relatively minor alteration to ground levels is required for the siting of the house and access. Existing post and wire boundary treatments are to remain with a new 1m high timber fence erected adjacent to the east boundary. The access is located off a new turning head which was part of works to improve the access into this site and for the neighbouring properties.

2. SITE DESCRIPTION

- 2.1 The site is located at the eastern edge of Culbokie on a grassy area adjacent to the public road leading out of Culbokie towards Munloch. The site is bounded by post and wire fencing and 4 neighbouring properties that are located off the same access lie to the north-east. Detached residential neighbours also lie to the south-east (Eight Acres), north-west and south. The site along with the neighbouring properties to the north are located on a crest, with levels rising gradually from the access road in a westerly direction before falling again.

3. PLANNING HISTORY

- 3.1 12/02770/FUL - formation of access, house plot and provision of footpath - Granted - 28.11.2012

14/04026/S42 - Application under section 42 to modify condition 1 of planning permission 12/02770/FUL (formation of access and house plot and provision of footpath) - Granted - 15.04.2015

15/03898/CLE - Certificate of Lawfulness - Formation of access and house plot and provision of footpath (planning permission reference 12/02770/FUL and application under section 42 (14/04026/S42) - to modify condition 1 of planning permission 12/02770/FUL - Granted - 10.11.2015

16/02334/S42 - Application under section 42 to develop land without compliance with condition 1 previously attached to planning permission reference 14/04026/S42 (originally 12/02770/FUL) for the formation of access and house plot and provision of footpath. Recommended for approval but refused at NPAC - 02.08.2016

PPA-270-2160 - Planning appeal against the above refusal - appeal allowed 16.03.2017

The site received full planning permission in November 2012 (12/02770/FUL) for the formation of a house plot, new access and provision of improvements to the public road including the provision of a footpath. The existing access was to be closed off and a new access formed to serve the house plot approved as part of this consent and 4 existing houses to the north of Eight Acres, which were on land previously owned and developed by the original applicant.

Following the granting of this planning permission, a Road Construction Consent (RCC) was issued for the improvements to the public road and the new access. However, the design and layout of the public road improvements and the new access was amended during the RCC process and no longer corresponded with the plans approved under planning permission reference 12/02770/FUL. It was therefore necessary for the applicant to apply for a section 42 consent for the non-compliance with condition 1 of planning permission reference 12/02770/FUL, which was the condition controlling the road improvements and which referenced plans not in accordance with those approved through the RCC. An application under section 42 to modify condition 1 was granted in April 2015 - 14/04026/S42. A new condition was attached to this section 42 consent, which referred to drawings showing the road improvements/access in accordance with the RCC.

In November 2015 a certificate of lawfulness was granted - 15/03898/CLE, which established that development had commenced at the site in the form of the new access from the public road, which was partially constructed in 2013, prior to the expiry of the planning permission. Therefore planning permission 14/04026/S42 (originally 12/02770/FUL) is now extant.

Another section 42 application was made in 2016 (16/02334/S42) seeking the removal of condition 1 attached to 14/04026/S42. Condition 1 secured improvements to the public road and the formation of a new access. The applicant sought to remove this condition in order to secure a level of road improvement works proportionate to a single house plot and in order to make the development economically viable. It was proposed that the formation of the new access only was proportionate to the single plot, and that the further road improvement works along the stretch of public road would be secured via the other forthcoming plots within the remaining land allocation. The application was refused at North Planning Applications Committee.

An appeal against the above refusal of this application was made to Scottish Ministers. The reporter appointed determined to allow the appeal in March 2017 and granted planning permission subject to a condition requiring the existing access to be closed off and the new access to the public road to be completed prior to the commencement of development.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown Neighbour
Representation deadline : 13.12.2017
Timeous representations : 0
Late representations : 0

5. CONSULTATIONS

- 5.1 Ferintosh Community Council: Objecting for the following reasons;
- The area is subjected to serious flooding and the drainage arrangements must alleviate the problems.

- The road/pavement/drainage improvements set out by previous Planning Permissions 16/02334/S42 must be implemented for the reasons of safety.

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

34 Settlement Development Area

6.2 Inner Moray Firth Local Development Plan July 2015

CU3 North of Carn Mor Dun (Housing)

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Not applicable

7.2 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May2011)

Sustainable Design Guide (Jan 2013)

7.3 Scottish Government Planning Policy and Guidance

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 The site is located within the settlement of Culbokie and the principle of development has been established through the previous consents at the site (detailed in section 5.1 above) and the allocation of the land for housing development within the Inner Moray Firth Local Development Plan (IMFLDP). The new road access into the site has been secured as required by the CU3 land allocation in the IMFLDP. The design and siting of the house is in keeping with the surrounding developments, which comprise of modern detached properties. The development presents no neighbour amenity or technical issues. The proposal is therefore considered to accord with Development Plan Policy.

8.4 Material Considerations

- 8.4.1 The Community Council in their first reason for objecting to the application have stated that the area is subjected to serious flooding and the drainage arrangements must alleviate the problems. The site does not fall within an area deemed to be at risk from flooding and the Council's flood risk management team have no record of any flood events at the site. Ground investigation has confirmed that the site is suitable for conventional soakways to take surface water. Foul drainage is into the publicly adopted system. The site is sizeable and provides adequate space for the provision of appropriately sized soakaways, which will be informed by percolation test results and the areas of roof and hard surface off which surface water will run. Refusal of permission on the grounds of flooding and/or drainage provision is not considered to be justified.
- 8.4.2 The Community Council in their 2nd reason for objecting to the application have stated that the road/pavement/drainage improvements set out by previous Planning Permissions 16/02334/S42 must be implemented for the reasons of safety. Works to improve road safety in the area are underway including improvements to the public road and the formation of a new access serving this site. The formation of a new access onto the public road is a requirement of the development of this plot and appeal decision ref PPA-270-2160 stipulated this as a condition. The other improvements to the public road are a requirement of the development of the remaining allocated land, however, these works have already been subject to RCC approval. Therefore improvements to the public road have been implemented and secured at the area of the development. These works have been part of a Road Construction Consent process and secured via planning condition. It would now not be reasonable to seek further or alternative improvements to what has already been consented. It would also not be proportionate in relation to this application for a single house plot to seek further road improvements beyond what has already been secured.
- 8.4.3 The design of the property is in keeping with the neighbouring plots to the north-east, which are orientated to the east and are a mix of single and 1½ storey. The finish materials, including the proposed elements of painted timber cladding, echo neighbouring properties. The neighbouring plots have been subject to some ground re-profiling works in order to accommodate development, so the new level to be created for the proposal will be consistent with the previous development of this land allocation. The neighbouring property "Willowbank" is located approx. 20m to the west and downslope of the proposed site. The proposal has been staggered further to the south-east in relation to this neighbour, which avoids any windows looking directly onto the neighbouring property. Furthermore, the closest windows on the west facing elevation are corridor windows. The siting and design of the proposal prevents any privacy or overlooking issues with regards to this neighbour. Some planting is proposed at the north-east boundary to provide some amenity screening with the other adjacent neighbour to the north "Strath View". It would be desirable to have further screening along the west boundary with the neighbour Willowbank, and a condition requiring details of this is attached. The other areas of hard and soft landscaping proposed are in keeping with the location of the development within an established housing area.

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. IMPLICATIONS

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

11. RECOMMENDATION

Action required before decision issued N

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

1. The external walls of the development shall be finished in white render and vertical timber cladding painted RAL 5003 (Sapphire Blue), unless otherwise agreed in writing as a non-material variation.
Reason : To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.
2. Prior to the first occupation of the development hereby approved, the car parking and access arrangements detailed on approved plan ref. 787/PL/02 A shall be completed in full and made available for use. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.
Reason : In the interests of road safety, and that the works involved comply with applicable standards.
3. No development shall commence on the construction of the house until the access that serves the properties known at the time of this application as Strath View, Danian, The Willows and Elder Cruachan has been permanently closed off and the new access arrangements have been completed in accordance with the associated RCC and plan reference 2562:200 attached to planning appeal decision notice PPA-270-2160.
Reason : To ensure that the new access with the public road is timeously provided before development of the site for a house commences, in the interests of road safety.

4. No development shall commence until details of boundary planting at the west boundary have been submitted to the Planning Authority for approval in writing. These details and all other landscaping works and boundary treatments shall be carried out in accordance with the plans approved as part of this permission. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the commencement of the development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason : In order to protect the privacy and amenity of the adjoining property *Willowbank* and to ensure that the approved landscaping works are properly undertaken on site.

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 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.

Local Roads Authority Consent

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

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

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

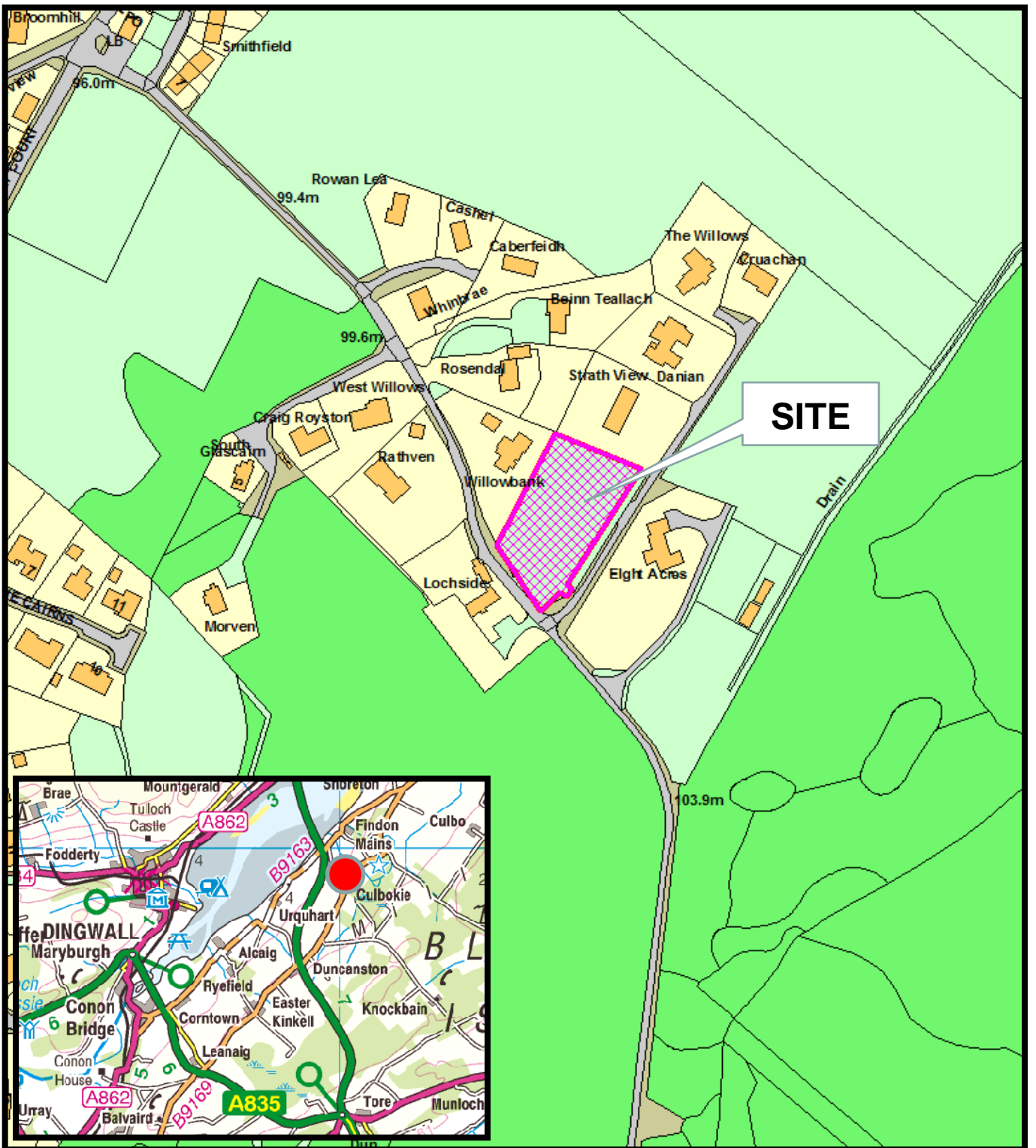
Application forms and guidance notes for access-related consents can be downloaded from:

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

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.

Designation: Area Planning Manager - North
Author: Rebecca Hindson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Site Layout Plan – 787-PL-02 REV A
Plan 3 –Elevation/Cross sections – 787-PL-04
Plan 4 – Ground Floor Plan – 787-PL-03
Plan 5 – Building Section Plan – 787 – PL - 05



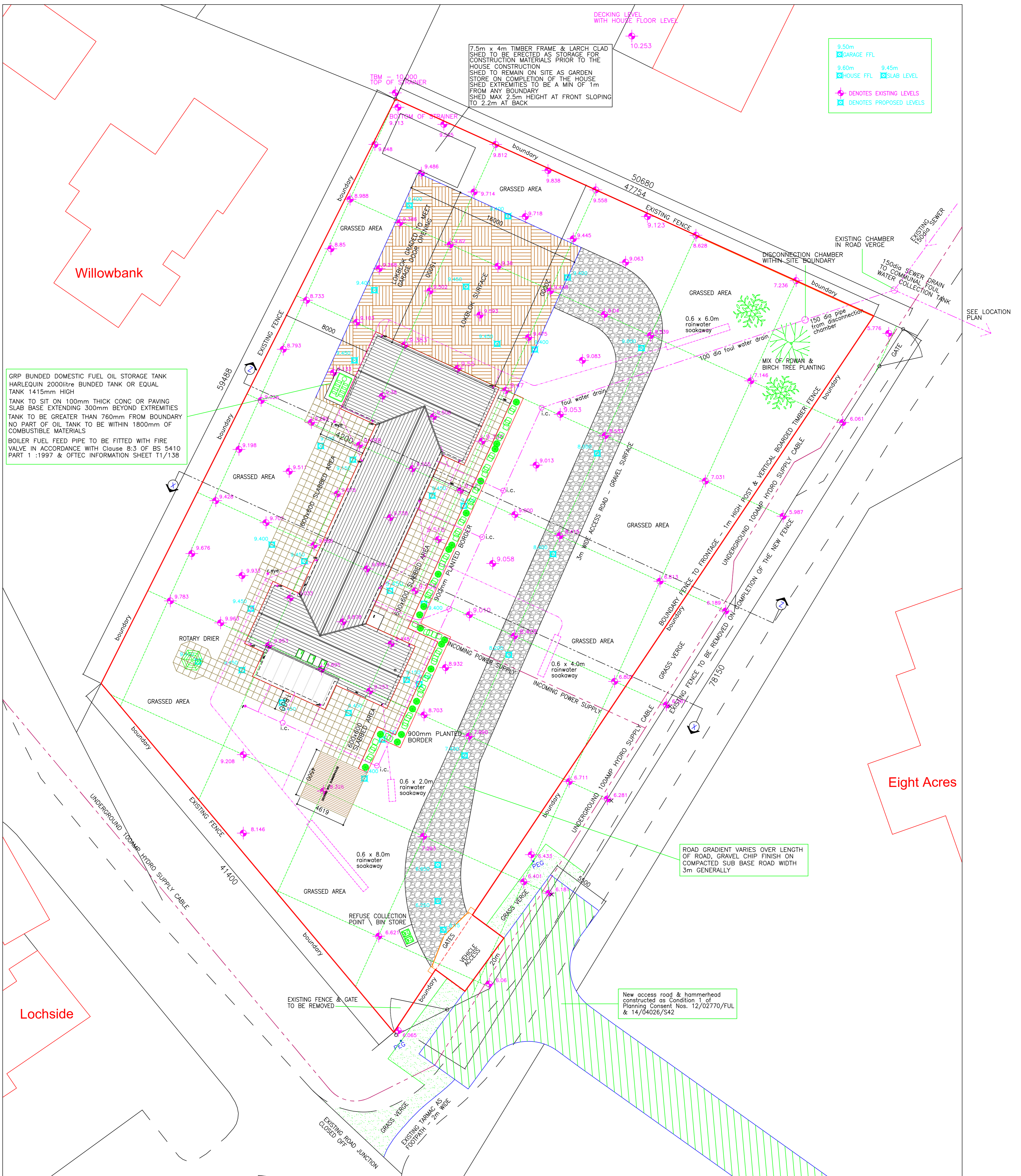
The Highland Council
Comhairle na Gàidhealtachd

Planning & Development Service

17/05345/FUL

**Erection of house and formation of access at
 Land to West of Eight Acres,
 Smithfield, Culbokie**



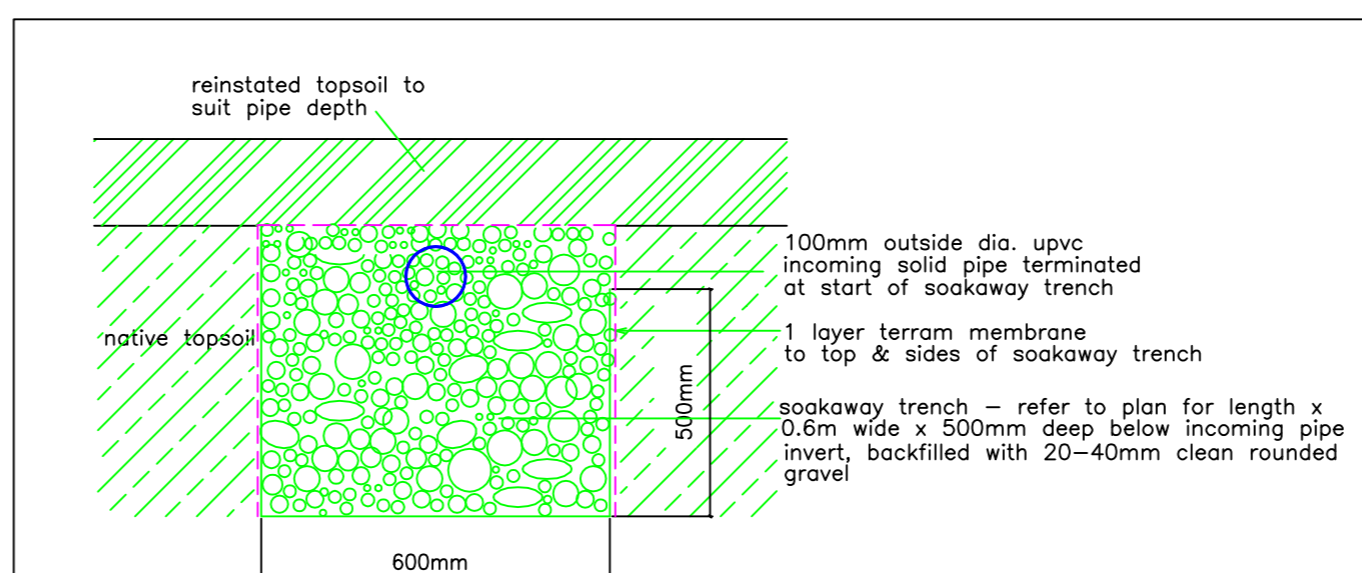


Proposed Site Plan 1:250

GRID REFERENCE: NH 604 588
 HOUSE SITE AREA WITHIN RED LINE - 2980sq.m. or thereby



1:250 SCALE BAR

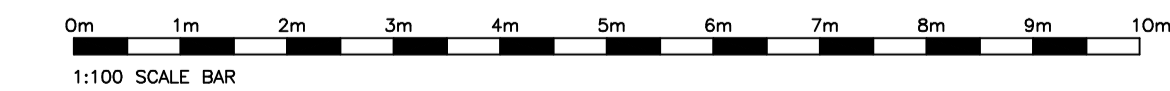
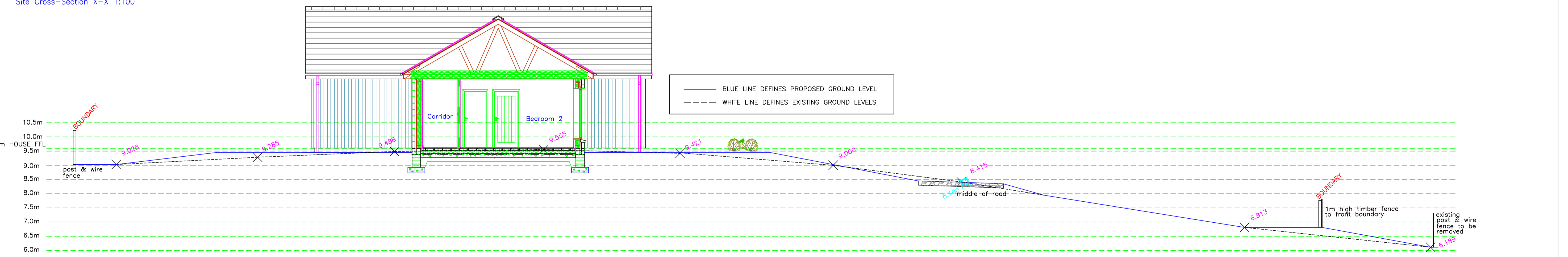
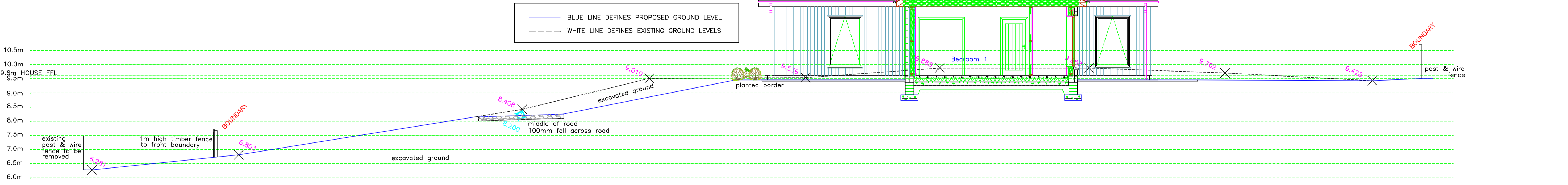
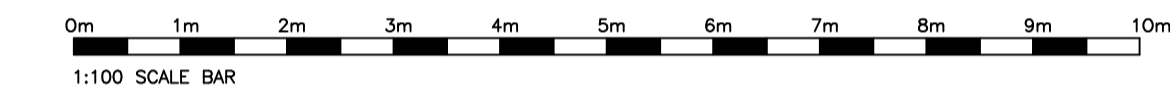
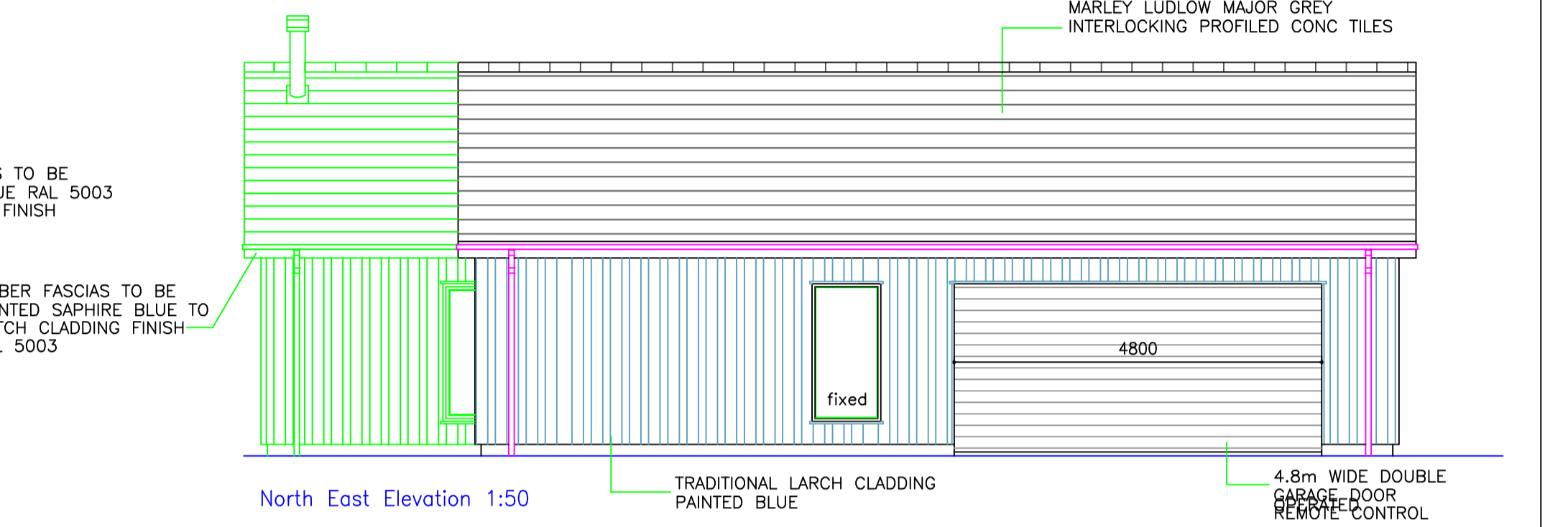
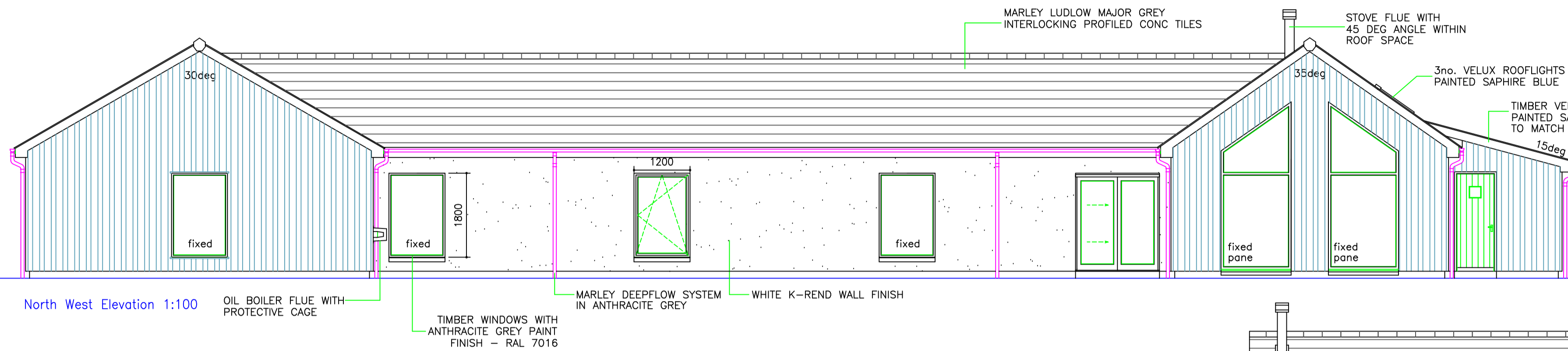
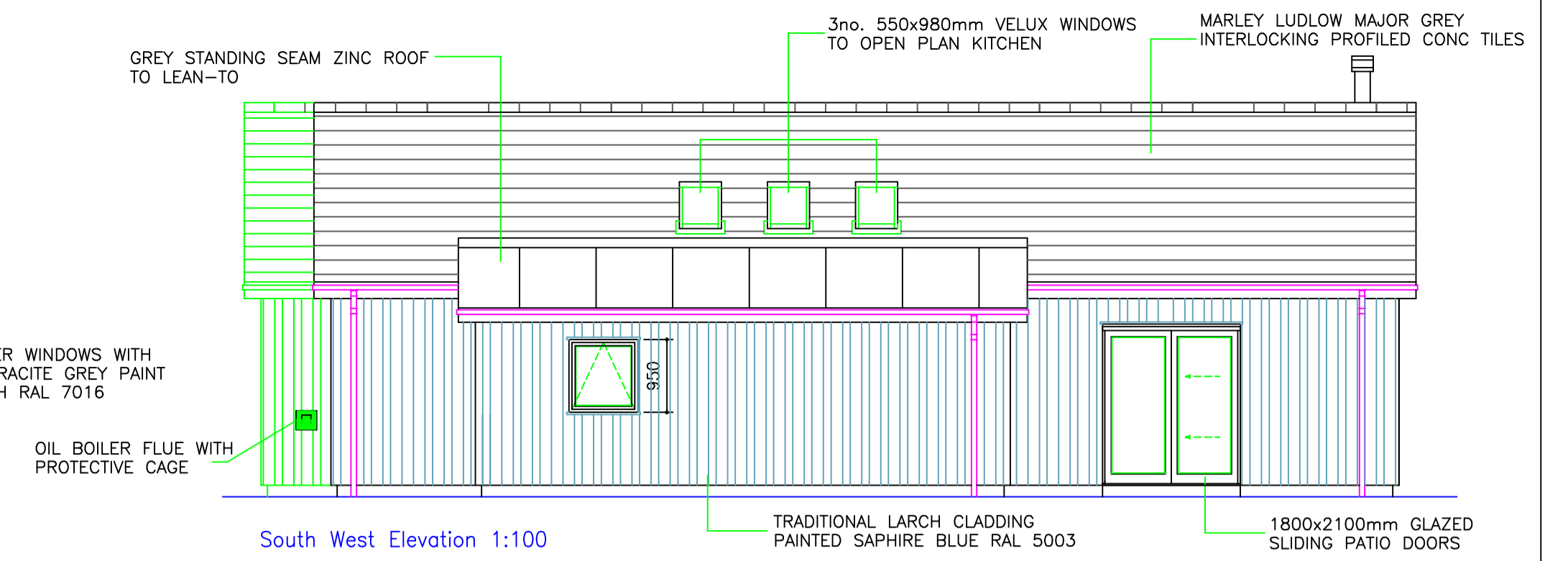
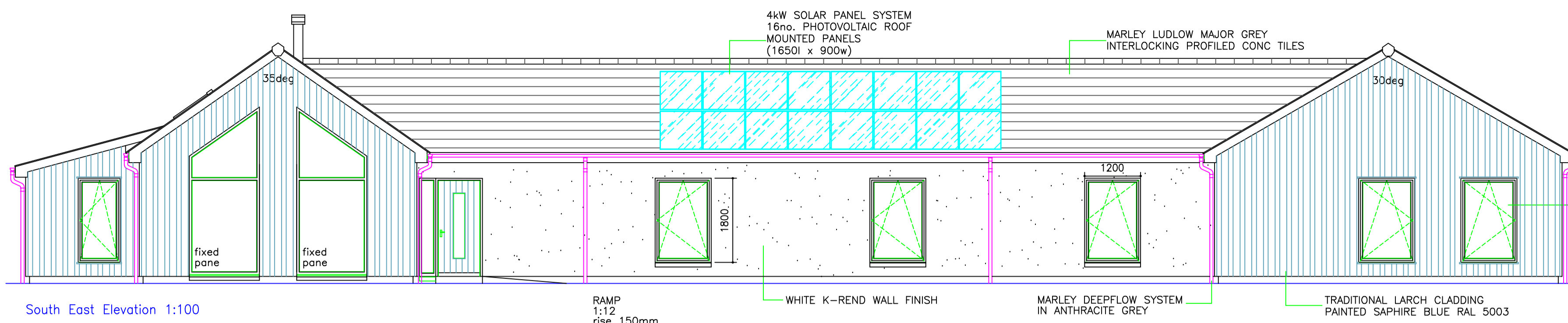


Rainwater Soakaway Trench

REVISION A - 16.11.17
 SITE PLAN - 1. RED LINE BOUNDARY AMENDED TO INCLUDE ACCESS TO PUBLIC ROAD

PROJECT	Erection Of New Dwelling Land West of Eightacres, Smithfield, Culbokie Ross-shire, IV7 8LA	
DRAWING	Proposed Site, Landscaping Plan & Soakaway Trench Detail	
CLIENT	Mr & Mrs. Neil Maclean Raylean, Duncanston, by Culbokie, IV7 8JB	
Drg. no.	787/PL/02	Revision A
Scale	as shown	Date Nov 2017

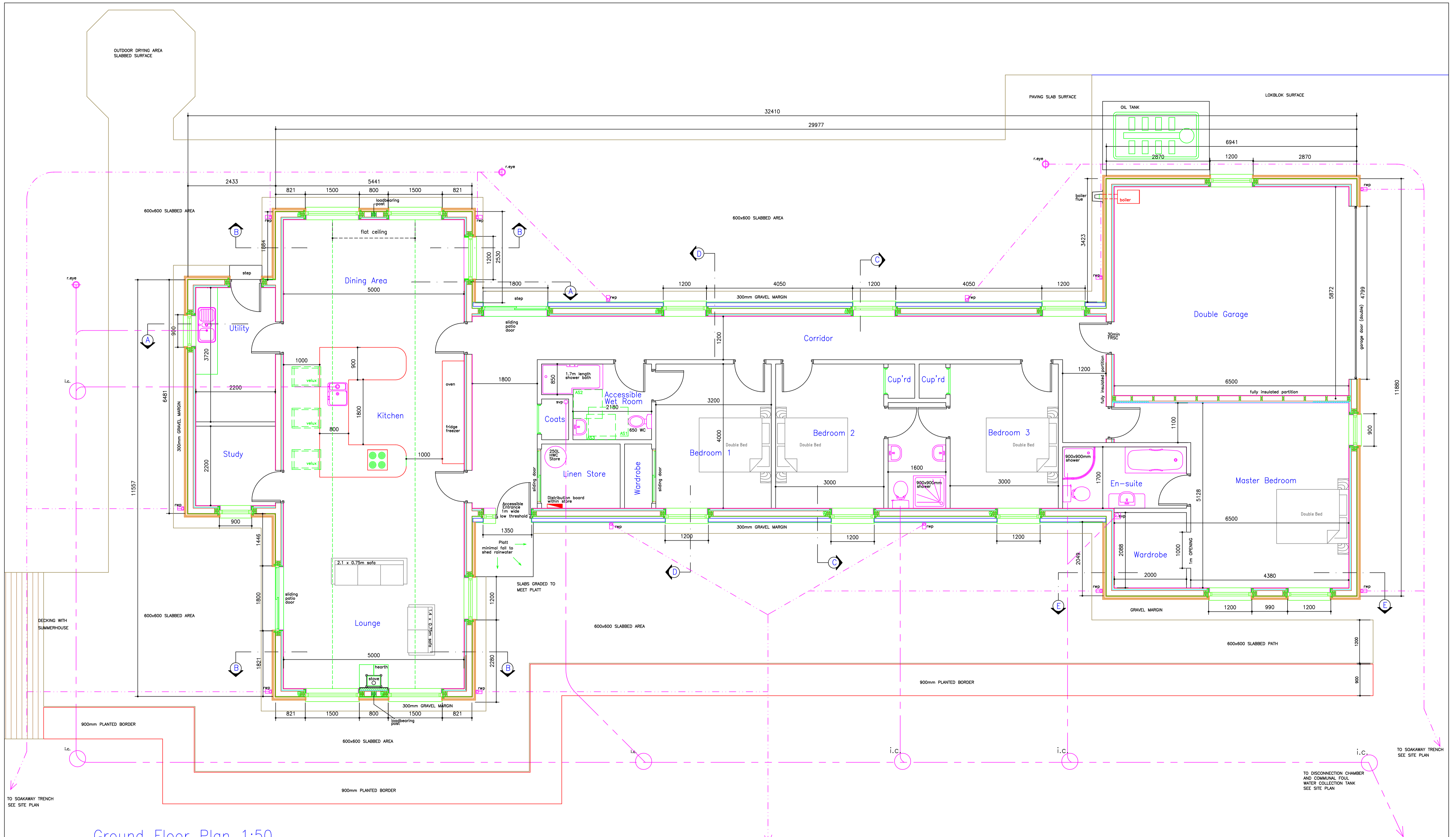
MIKE MACBETH MCIQB tva
 MICMAC ARCHITECTURAL SERVICES
 THE OLD POTTERY, MILLBANK ROAD,
 MUNLOCHY, ROSS-SHIRE IV8 8NL.
 Tel / Fax 01463 811799
 Email - mike.macbeth@tiscali.co.uk



PROJECT	Erection Of New Dwelling Land West of Eightacres, Smithfield, Culbokie Ross-shire, IV7 8LA	CLIENT	Mr & Mrs. Neil Maclean Raylean, Duncanston, by Culbokie, IV7 8JB
DRAWING	Proposed Elevations & Site Cross-Sections	Drg. no.	787/PL/04
		Scale	1:100
		Revision	
		Date	Nov 2017

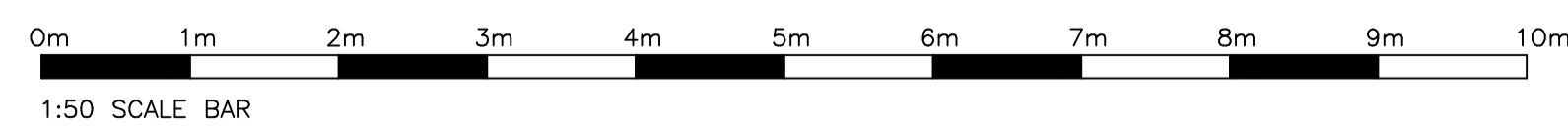
MIKE MACBETH MCIQB (A)
MICMAC ARCHITECTURAL SERVICES
THE OLD POTTERY, MILLBANK ROAD,
MUNLOCHY, ROSS-SHIRE IV8 8NL.

Tel / Fax 01463 811799
Email - mike.macbeth@tiscali.co.uk



Ground Floor Plan 1:50

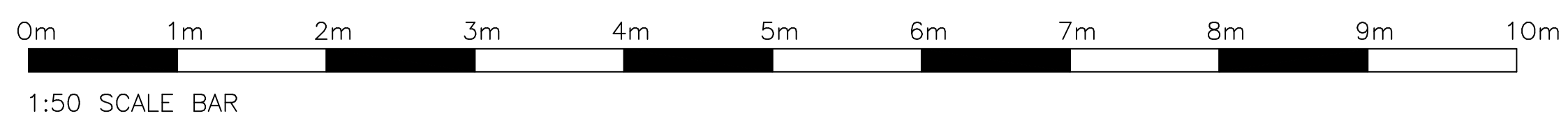
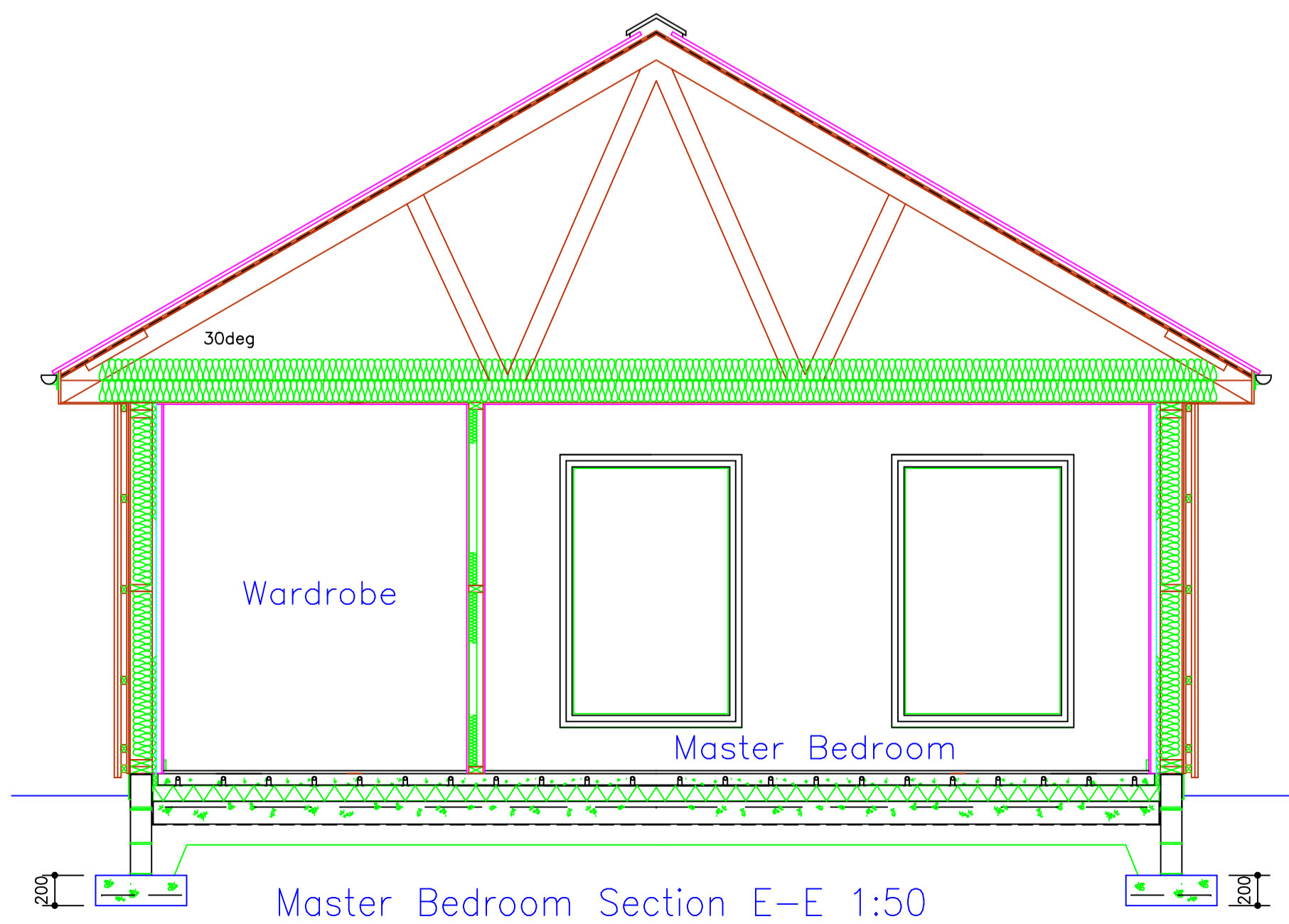
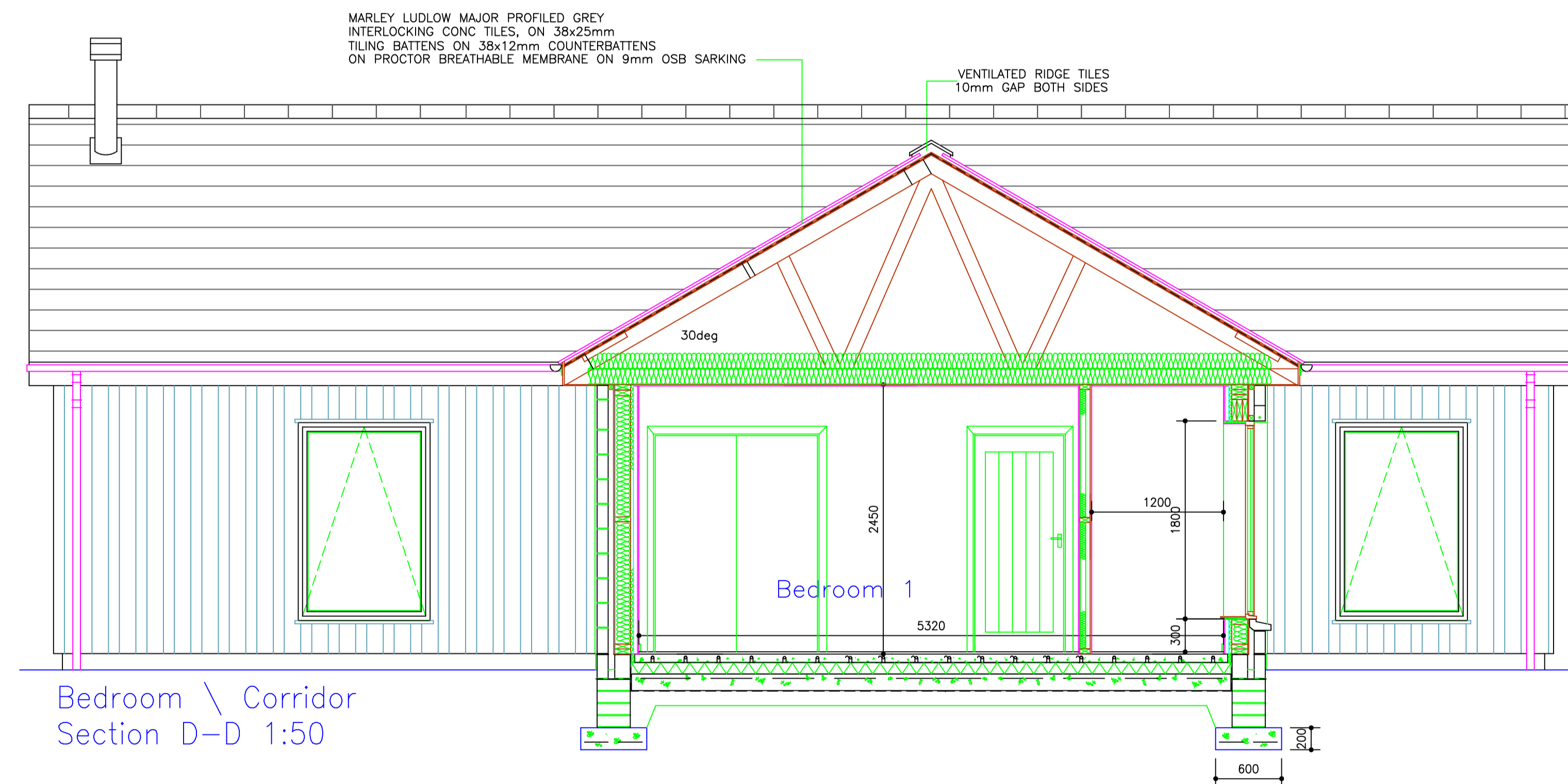
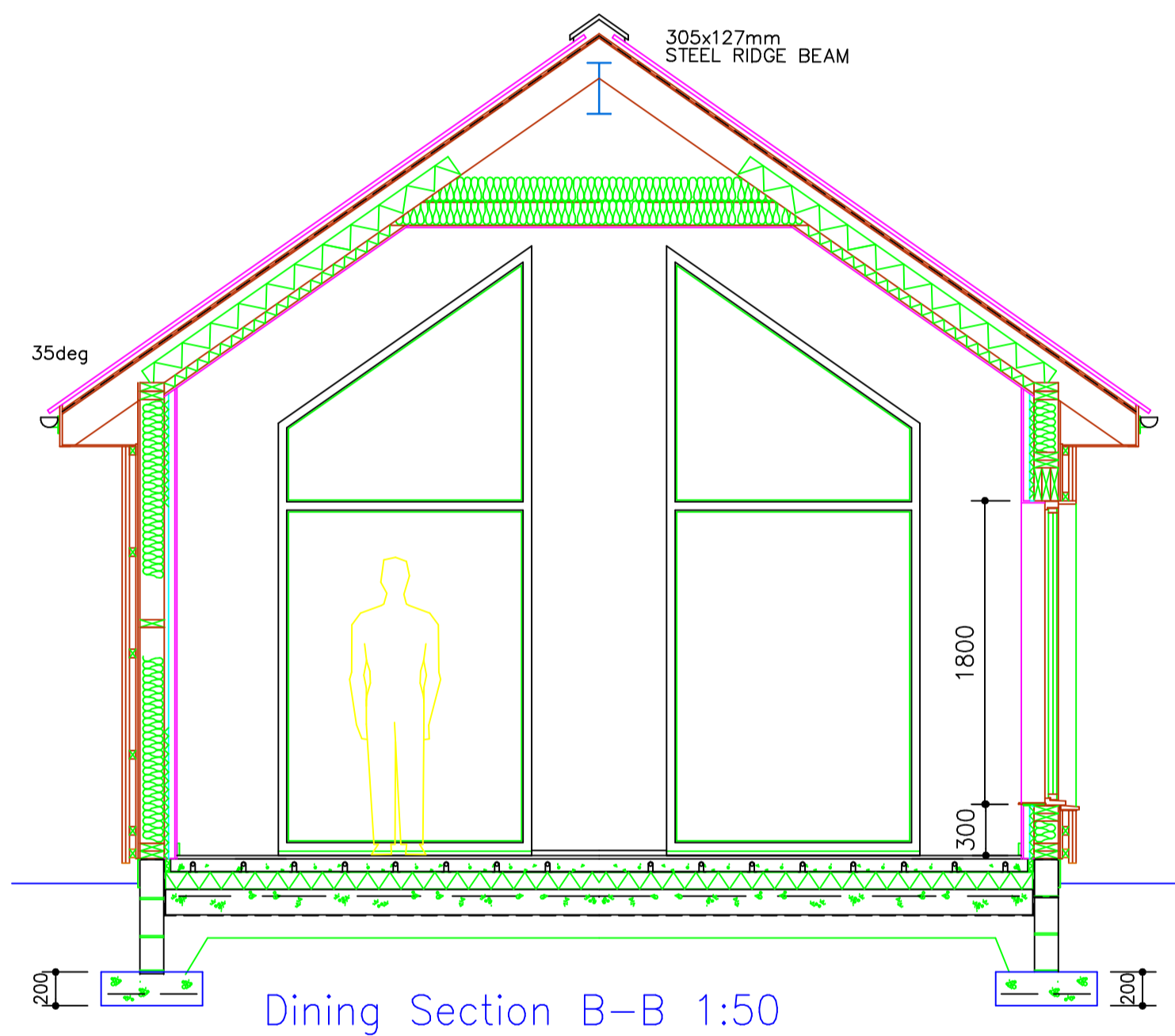
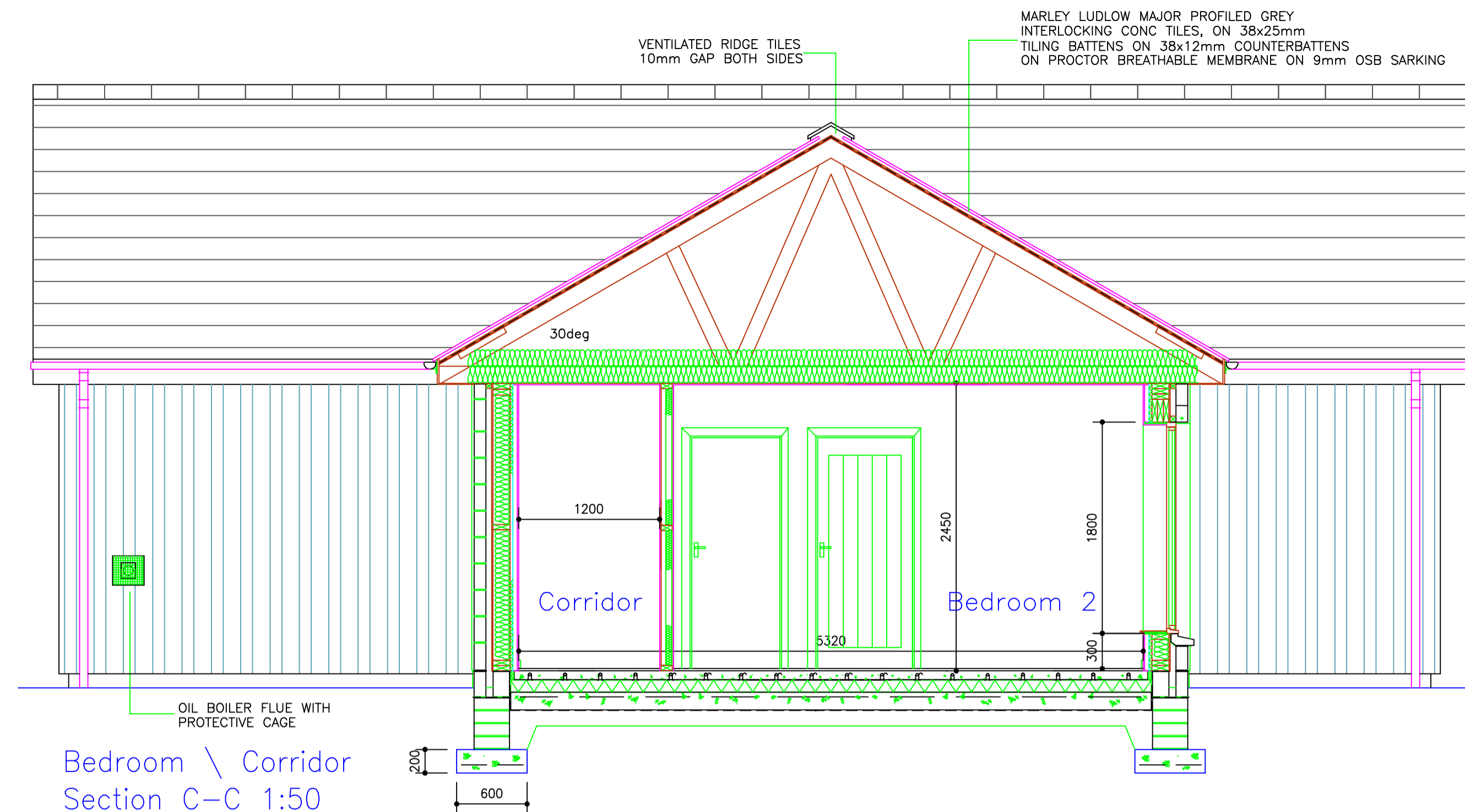
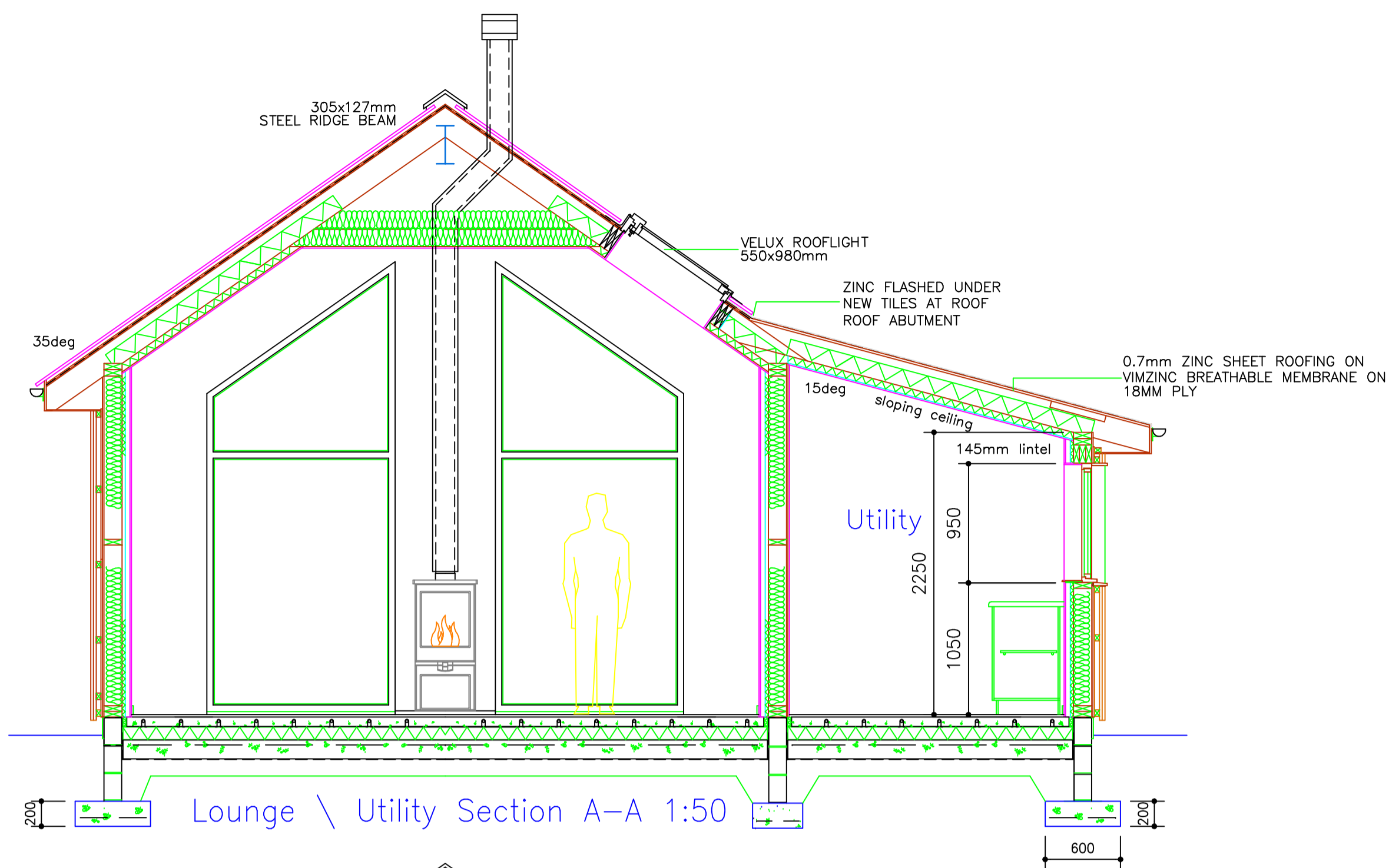
TOTAL FLOOR AREA = 245.5sq.m
 GROUND FLOOR AREA = 208sq.m
 GARAGE FLOOR AREA = 37.5sq.m



1:50 SCALE BAR

PROJECT	Erection Of New Dwelling Land West of Eightacres, Smithfield, Culbokie Ross-shire, IV7 8LA		
DRAWING	Proposed Floor Plan		
CLIENT	Mr & Mrs. Neil Maclean Raylean, Duncanston, by Culbokie, IV7 8JB		
Dwg. no.	787/PL/03	Revision	
Scale	as shown	Date	Nov 2017

MIKE MACBETH MCI08 (s)
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PROJECT	Erection Of New Dwelling Land West of Eightacres, Smithfield, Culbokie Ross-shire, IV7 8LA	
DRAWING	Proposed Sections	
CLIENT	Mr & Mrs. Neil Maclean Raylean, Duncanston, by Culbokie, IV7 8JB	
Drg. no.	787/PL/05	Revision
Scale	as shown	Date Nov 2017

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