

Agenda Item	6.7
Report No	PLS 022/18

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee  
**Date:** 13 March 2018  
**Report Title:** 17/05470/FUL: Mr Michael McHardy  
Land 120M North Of Brooklea, Lentrán, Inverness  
**Report By:** Area Planning Manager – South/Major Developments

### **Purpose/Executive Summary**

**Description:** Erect 3 houses with integral garages  
**Ward:** 12 - Aird and Loch Ness

**Development category:** Local

**Reason referred to Committee:** Request by members for the ward

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.

### **Recommendation**

Members are asked to agree the recommendation to **Refuse** planning permission as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 The proposal involves the erection of 3 houses in a linear form to the southwest of a track. Each house is to be 1 storey with an integral garage of modest proportions (16.767 m in length and 9.6m in width) with steep roof pitch and extension on the rear elevation (south east facing) to provide a living area clad in timber as opposed to dry dash render for the remainder of the walls. The roof finishes comprises of slate-effect concrete roof tiles. There is a communal driveway to serve all 3 properties which leads onto the access track.
- 1.2 There is an existing access track on the northeast boundary leading to a surfaced road to the northwest, which serves 3 houses and the flats in Lentrán House, and then onto the public road. The access track also carries round to the east and links in within the houses at Lentrán. This is unsurfaced (U2370) which deteriorates travelling east from its junction with the applicant's house, Brooklea. Each house is to be served by an individual septic tank and soakaway and trial test soakaways have been carried out and found to be capable of accommodating this.
- 1.3 Pre Application Consultation: 15/00940/PREAPP was submitted for 1 house and the applicant was advised the house would be contrary to Policy as it did not form part of a housing group.
- 1.4 Supporting Information: Design Statement, Percolation Test Results, Private Access Checklist.
- 1.5 Variations: Drawing 1634-100 REV F to show service bay onto the access track and passing place on the private access road between A872 and Lentrán House on land within the ownership of the applicant.

## **2. SITE DESCRIPTION**

- 2.1 The site lies within an open field to the southeast of a former woodland area (recently felled), which formed the site for the previous application 17/01796/FUL. The site borders the properties, the Limit and Lentrán Villa, to the northeast of the track and the Bungalow (to the southwest).

## **3. PLANNING HISTORY**

- 3.1 23 April 2015      15/00940/PREAPP Erection of dwelling
- 3.2 04.09.2017      17/01796/FUL -Erect 3 new dwellings within      Withdrawn  
the former woodland area to the northwest of  
the present application site.

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised: No  
Date Advertised: n/a  
Representation deadline:      20 December 2017

Timeous representations: 18 Representations (15 households) – 13 objections and 5 in support

Late representations: 0

#### 4.2 Material considerations raised are summarised as follows:

- a) Local Development Plan – Not allocated for housing and land allocated in Bunchrew and Kirkhill. Contrary to Supplementary Planning Guidance: inappropriate intrusion into a previously undeveloped field or open land; a green field rather than a brown field site; not affordable housing. According to Mr Maclennan, the field has been used as a campsite for students who worked for summer fruit picking and has not been used for this purpose for at least 40 years. The only permanent building was the toilet block located on the driveway to Brooklea.
- b) Amenity – ribbon development will affect the setting of Lentrán House (Listed Building) whose perimeter is within 10m of the site. Regimented linear design detracts from the natural beauty of the place.
- c) Precedent – risk of more housing to join up settlements across the fields.
- d) Support – encourage further housing for younger workers with the high proportion of elderly residents on the hill as a need for affordable housing
- e) Private road leading to Lentrán House – All 11 dwellings within Lentrán House contribute financially to the maintenance. Query legal right of access to applicant to take access for the development.
- f) Road safety – junction of driveway to Lentrán House with public road (A862) difficult to manoeuvre turning in from the public road due to the sharp “snake-back” turn up an incline at a dangerous bend with poor visibility angle of the junction. Construction traffic will damage the driveway. Passing place is 4.1 m wide and 7m in length and not standard size. Road should be brought up to adoptable standard.
- g) Core path – Access Officer advises it is only for walkers, cyclists, horses and authorised vehicles and raises concerns about an increase in traffic.

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](http://www.wam.highland.gov.uk/wam).

## 5. CONSULTATIONS

5.1 **Access Officer:** Access for these houses and their construction will use a track that also serves as a core path which is known as the Lentrán House Drive [IN21.08]. This path is to be kept open in the Location/Site Plan.

Recommends an informative:

This proposal will use a section of a core path [IN21.08] for construction and access. This core path shall remain open and free from obstruction or encroachment before, during and after construction.

Reason: In order to uphold access rights under the Land Reform (Scotland) Act 2003.

Being a core path there are obligations on those who disturb the surface to reinstate it within 14 days or a period agreed with the access authority [the

Council]. It is reasonable to anticipate construction traffic having a detrimental affect on the condition of the core path.

Suggests a condition:

This proposal will use a section of a core path for construction. Any disturbance or damage to the route must be repaired to as good or better a standard than pre development within 14 days of the disturbance occurring, or such longer period as agreed with the local authority.

Reason: To comply with the Council's statutory duty to uphold access rights.

- 5.2 **Forestry Officer:** The site is in pasture adjacent to an area of woodland which has been clear felled and is awaiting restock. There are no trees on site which would be affected by the proposals.

The Site Plan shows proposed broadleaf and conifer symbols in all three plots and the drawing is also annotated that it is proposed to plant native small trees and shrubs (birch, hazel, rowan and willows) but further details will be required.

Recommends the following condition: -

1. No development shall commence until a detailed Tree Planting Plan and maintenance programme has been submitted to and approved by the planning authority. The Tree Planting Plan shall include details of species, numbers of trees, size of planting stock, means of protection and five year maintenance programme, and it shall be implemented in full during the first planting season following commencement of development or as otherwise agreed in writing by the planning authority.

Reason: In the interests of amenity.

- 5.3 **Historic Environment Team:** The proposed development is located in an area of archaeological potential. Recommend the following condition:

No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason. In order to protect the archaeological and historic interest of the site.

This requires that the development area is the subject of an archaeological evaluation in order to establish the archaeological content and potential. Dependent on the results of this work, further study may be required in advance of, and during, construction works. The evaluation will be backed up by desk-based research to produce a report setting out the results and any required mitigation strategy. The applicant will need to engage the services of a professional archaeological contractor. The specification represents the minimum standard of work necessary to meet the needs of this condition.

- 5.4 **Transport Planning:** Access – These three plots are accessed directly from an unsurfaced private track which then joins the surfaced private track leading to

Lentran House. The nearest junction with the public road is with the A862. The track from the A862 to Lentran House is surfaced and lit and appears to be in good condition. The visibility from the private track onto the A862 is adequate to the west, but to the east visibility is limited. Although the mouth of the junction does not meet Council guidelines it does provide enough width to allow two cars to pass each other. They do not anticipate that the extra traffic associated with three additional houses will be a significant road safety issue at the junction with the A862. There are no reported incidents or accidents at the junction so although visibility is limited, it is clearly not a road safety issue.

The route to the site from the U2370 is not a suitable alternative access as it is in a very poor condition.

They do not anticipate that the traffic generation associated with three extra houses will be detrimental to the existing public road network, but they recommend that an additional passing place is provided on the private track to supplement the existing passing place (the entrance to the Bungalow and not a designated passing place) and this has now been shown on drawing no.1634-100 Rev F. The passing place should be designed as per the standard passing place shown in Figure 5.1 of the Council guidance 'Roads and Transport Guidelines for New Developments'.

As per the Highland Council variations of the SCOTS National Roads Development Guide, normally five or more dwellings should be served by an adopted road. However, it would not be commensurate with the scale of this current development to make this applicant incur the costs associated with bringing this track up to an adoptable standard.

They recommend the existing private track is surfaced from the new service bay to the existing private track to Lentran House. The track should also be profiled to ensure surface water does not flow down the track towards the junction.

To prevent obstruction of the private track by construction traffic and debris they recommend a condition for a Construction Traffic Management Plan. This will ensure a full understanding of how many vehicles enter the site, where they park and arrangements for deliveries to ensure the track remains open for residents/deliveries.

Waste Collection – further clarification has been sought given that this is a private road. Council vehicles do however currently travel along the private track to empty bins and a purpose built bin storage area will be provided as part of the application.

## **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

30 - Physical Constraints

35 - Housing in the Countryside (Hinterland Areas)

61 - Landscape

65 - Waste Water Treatment

77 - Public Access

78 - Long Distance Routes

**6.2 Inner Moray Firth Local Development Plan 2015**

Policy 3 – Other Settlements

**7. OTHER MATERIAL CONSIDERATIONS**

**7.1 Highland Council Supplementary Planning Policy Guidance**

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

Flood Risk & Drainage Impact Assessment (Jan 2013)

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

Physical Constraints (March 2013)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

**7.2 Scottish Government Planning Policy and Guidance**

Not applicable

**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.

Determining Issues

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.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) layout and design
- c) road safety
- d) core path
- e) any other material considerations.

Development plan/other planning policy

8.4 The site lies within the Hinterland, as defined in the Highland-wide Local Development Plan (HwLDP), and the Inner Moray Firth Local Development Plan. HwLDP Policy 35 is relevant here and presumes against housing in the open countryside except if it meets the relevant criteria mentioned in that policy. Policy 35 links to the Supplementary Guidance on Housing in the Countryside and Siting and Design, which provides further guidance on the criteria and exceptions to this presumption.

- 8.5 The Supplementary Planning Guidance sets out the criteria whereby housing may, by exception, be supported in the countryside. There are two relevant criteria advanced in this case; development on brownfield land, and where the development forms part of a housing group.
- 8.6 Reference is made to the site being brownfield land due to a previous use as a camping site. However there is no physical evidence to show this and the land is not degraded and is capable of cultivation. It is not therefore a brownfield site in terms of policy assessment.
- 8.7 The definition of a housing group is where there are at least 3 houses which have a perceptible relationship with one another. If the existing housing group has been formed then the proposal needs also to be assessed as to whether it comprises an infill or rounding off of that housing group. The Supplementary Planning Guidance allows for the increase in any housing group up to 100 % of the existing houses in the group from the date of the adoption of the Guidance on 03 August 2011.
- 8.8 The proposal could only be considered to comply with the development plan in principle where it sits within one of the exceptions contained within Policy 35 and Supplementary Planning Guidance. Further consideration is required on siting, layout, building design, the impact on infrastructure and community and residential amenity as required by Policy 28 and 29 of the Highland wide Local Development Plan.

#### Layout and design

- 8.9 Having dispensed with the exception relating to development on brownfield land, the remaining exception relates to whether the proposal would be considered to sit within a housing group. This definition relates to houses in the immediate area. It cannot be interpreted as meaning Lentrán as a whole, an argument that has been advanced by the applicant in this case.
- 8.10 The Bungalow to the southwest of the site and the Limit, Lentrán Villa and Lentrán House to the northeast would not be considered a group as the Bungalow is located too far from the Limit and Lentrán Villa. The Limit, Lentrán Villa and Lentrán House could however be considered a housing group but the site does not round off or infill that group as it is located to the southwest of the track and remote from the group in that sense. It is therefore considered that the applicant has misinterpreted the meaning of the Supplementary Guidance in terms of the definition of a housing group. The applicant has suggested that the 3 houses form the housing group where in fact it is the houses surrounding the site that are involved in the assessment of a housing group. Three houses divorced from a recognised existing housing group cannot satisfy the terms of relevant policy and guidance.
- 8.11 Turning in more detail to the form of development, the proposal is for three single storey houses in a linear pattern. While the design of each house individually is appropriate, taken as a whole they do not relate to the existing pattern of development within this part of Lentrán and consequently introduce suburbanisation and a loss of the semi-rural character. Little attempt has been made to reflect the existing settlement character and the proposed layout

introduces a form which is inappropriate for a rural location.

#### Road safety

- 8.12 The junction with the surfaced access road (between A862 and Lentrán House) does not meet current standards in terms of road design given Lentrán House was constructed in 1866. Access from the A862 is a difficult manoeuvre due to the sharp “snake-back” turn up an incline at a dangerous bend with poor visibility at the angle of the junction. Transport Planning recognise the substandard nature of the junction in that the visibility sightline to the east is limited. Although the mouth of the junction does not meet Council guidelines it does provide enough width to allow two cars to pass each other. It is not anticipated that the extra traffic associated with three additional houses will be a significant road safety issue at the junction with the A862. There are no reported incidents or accidents at the junction which indicates there is a road safety issue.
- 8.13 The agent has submitted a revised drawing to show how a passing place could be provided on the driveway on land within the ownership of the applicant. The concern about construction traffic could be dealt with by way of a Construction Traffic Management Plan.

#### Core path

- 8.14 The access track (known as U2370) will be unaffected as it will not be obstructed. The core path will remain unaffected. The track is capable of taking vehicles and serves as a connection between the houses around Lentrán House and the houses at East Lentrán. The applicant takes vehicular access from this section of track.

#### Other material considerations

- 8.15 The issue of affordable housing has been raised in a letter of support. However, no case has been presented by the applicant to assess whether it meets policy. The appropriateness of siting and design would still be a consideration in the location of such housing. Trial soakaways were carried out to determine the sites’ suitability for the disposal of septic tank effluent and the applicant’s agents are satisfied there is sufficient space within each site for the treatment system and soakaway and it meets the necessary standards. The houses will connect to the public water supply but it is not known at this stage whether there is capacity in the public system to take 3 houses.

#### Non-material considerations

- 8.16 The issue of the right of access across the surfaced track leading to Lentrán House is not a material planning consideration. While all 11 dwellings within Lentrán House contribute financially to the maintenance, a legal right of access to the applicant exists to take access along this route to the development. maintenance of the unadopted road would be a matter to resolve by the individual users.

#### Matters to be secured by Section 75 Agreement

- 8.17 None



## 9. CONCLUSION

9.1 The applicant has presented a case that the 3 houses form a housing group and consider it is in accordance with the Council's Supplementary Planning Guidance. However, the definition of what comprises a housing group is very clearly set out in the guidance and taking into the existing settlement pattern and location of individual houses in the vicinity, it is evident that no such housing group exists and this development cannot be considered to comply with Development Plan policy and supplementary guidance in particular. Even if a group could be defined, the development site cannot be construed as rounding off or infill of that group. Furthermore the development does not respect the existing pattern or character of development within the area. The proposal therefore runs contrary to the provision of Hinterland policy and supplementary guidance policy and no support can be given to the proposal.

The form and layout of the proposed development also gives cause for concern as it introduces an urban layout within the countryside and fails to respect the existing settlement pattern.

9.2 It is noted that although access to the site both uses a core path and increases vehicular use on an unadopted road, subject to some improvements, there are no particular issues raised by Transport Planning.

9.3 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. 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

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

**Subject to the above**, it is recommended that planning permission be **REFUSED** for the following reasons:

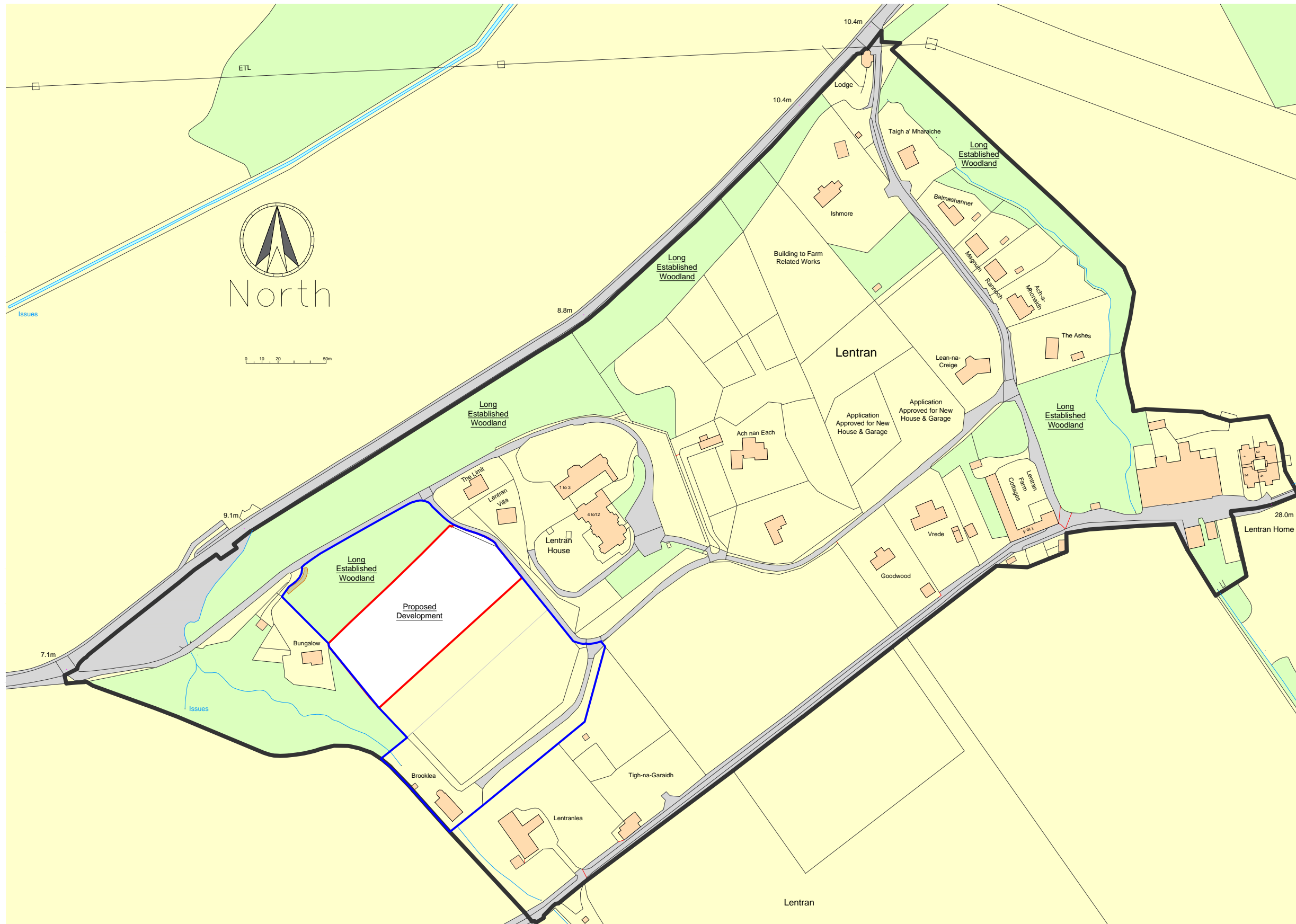
### **Reasons for Refusal**

1. The proposal, if approved, would be contrary to the provisions of Policy 28 of the Highland-wide Local Development Plan as the site does not demonstrate sensitive siting and will have an adverse impact on individual and community residential amenity.
2. The proposal, if approved, would be contrary to the provisions of Policy 35 of the Highland-wide Local Development Plan as the site lies within the Hinterland and the proposal does not meet the exceptions for housing in this area as listed in the policy, in particular for development within garden ground or acceptable expansion of a housing group, as defined in the Supplementary Guidance for Housing in the Countryside.
3. The proposal would both result in an intrusive and conspicuous development within the defined Hinterland area to the detriment of the visual amenity and character of the area which would undermine and weaken approved Council policy within the defined Hinterland areas.

### **REASON FOR DECISION**

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.

Signature: Nicola Drummond  
Designation: Area Planning Manager – South/Major Developments  
Author: Keith Gibson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - 1634-001 REV A location plan  
Plan 2 - 1634-100 REV G location/site plan  
Plan 3 - 1634-101 REV A Plot 1 & 2 floor/elevation plans  
Plan 4 - 1634-102 Plot 3 floor/elevation plans



- Land Own by the Applicant
- Proposed Development
- Lentrán

A: Location Amended 16.11.17  
 Rev \_\_\_\_\_ Date \_\_\_\_\_

Drawing status \_\_\_\_\_

Client  
 Mr & Mrs McHardy

Project  
 Development of 3 new Houses  
 Lentrán

Detail  
 Location Plan

Drng No 1634 - 001	Rev A
Scale As noted @ A3	Date October 2017
Drawn MM	Checked LH

Verify all dimensions and levels.  
 Do not scale from this drawing. This drawing is to be used in conjunction with the consultants drawings and the specification. Any discrepancies to be referred to the Architect.

# LOCATION PLAN

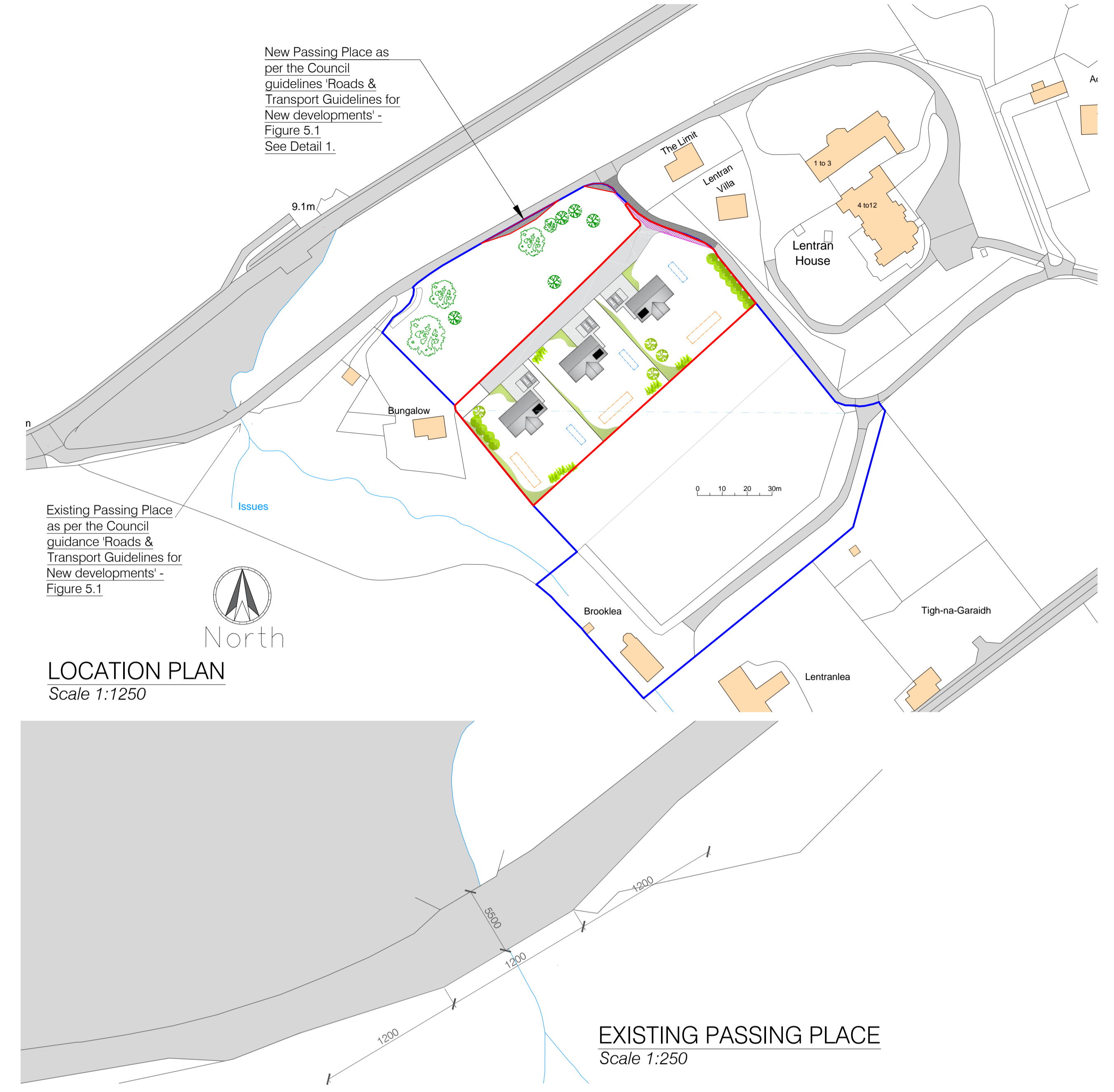
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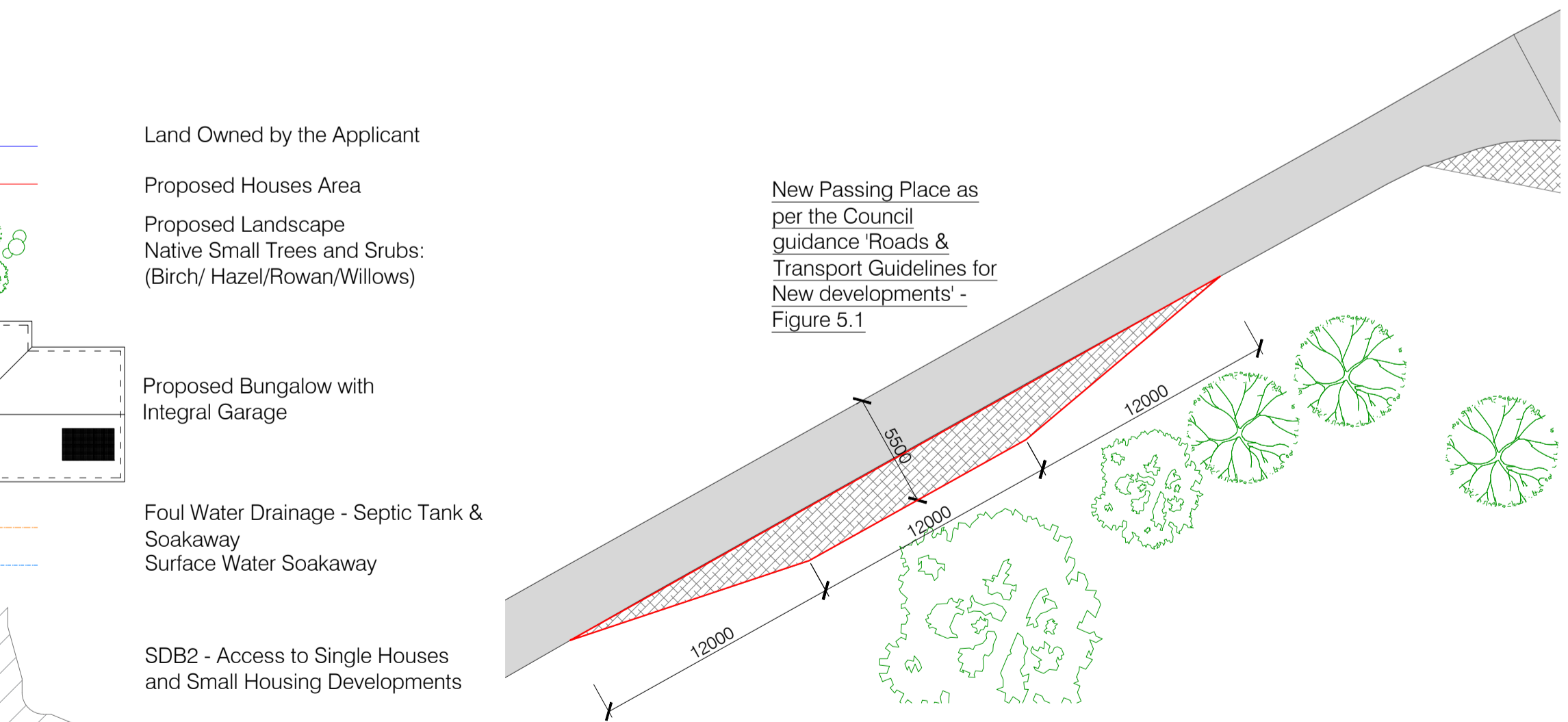
Ordnance Survey, (c) Crown Copyright 2017. All rights reserved. Licence number 100022432











**PROPOSED SITE PLAN**  
Scale 1:500



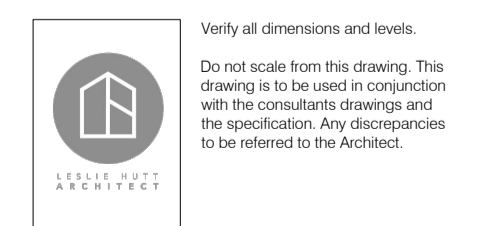
**LOCATION PLAN**  
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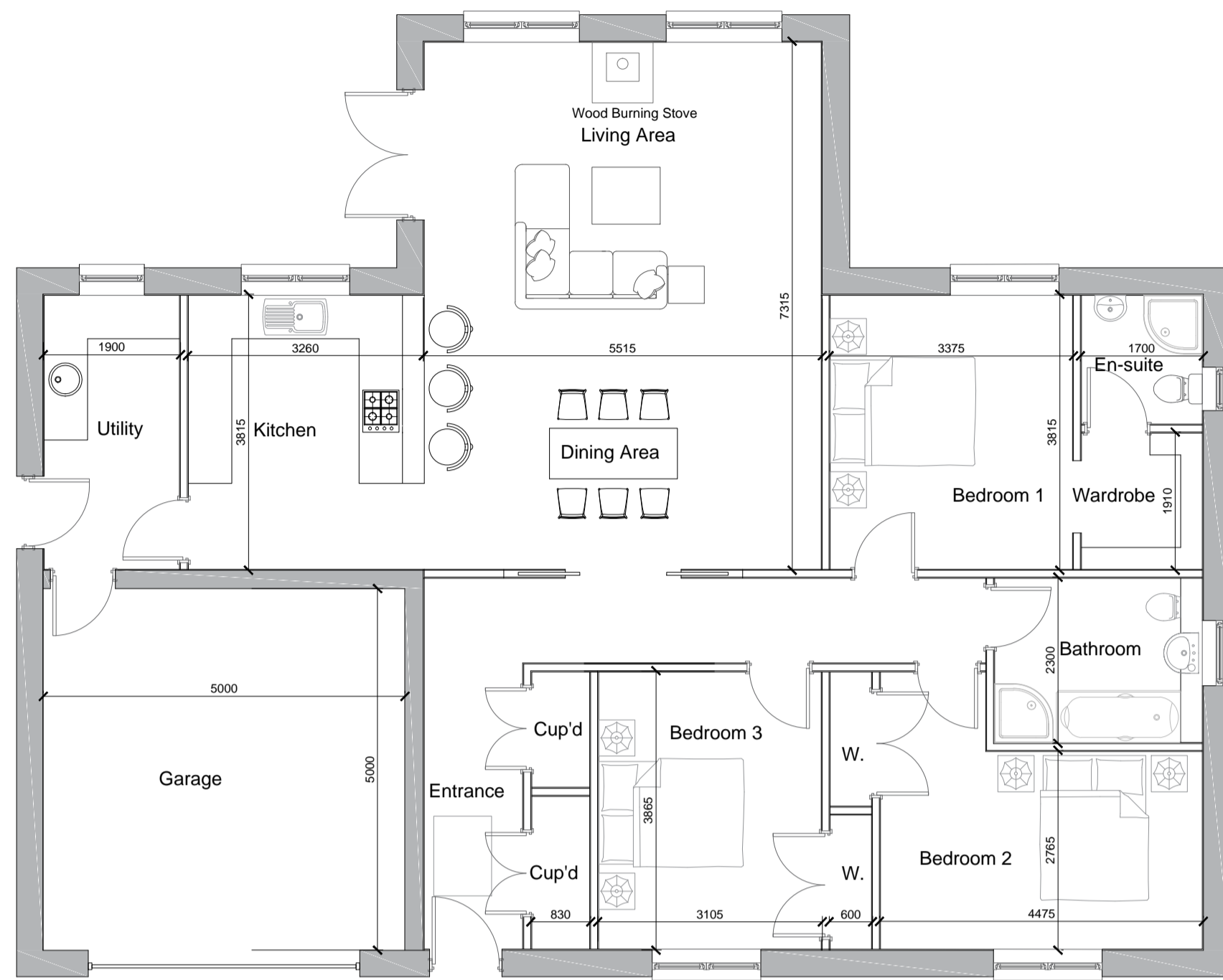
**DETAIL 1**  
**PROPOSED NEW PASSING PLACE**  
Scale 1:250

-  Land Owned by the Applicant
-  Proposed Houses Area
-  Proposed Landscape Native Small Trees and Scrubs: (Birch/ Hazel/Rowan/Willows)
-  Proposed Bungalow with Integral Garage
-  Foul Water Drainage - Septic Tank & Soakaway
-  Surface Water Soakaway
-  SDB2 - Access to Single Houses and Small Housing Developments
-  Visibility Splay

G: added information	18.01.17
F: added information	09.01.17
E: location of houses amended	16.11.17
Rev	Date
Drawing status	
Client	Mr & Mrs McHardy
Project	Development of 3 new Houses Lentran
Detail	Location & Site Plan
Drg No	Rev
1634 - 100	G
Scale	Date
As noted @ A1	24.11.2016
Drawn	Checked
MM	LRH



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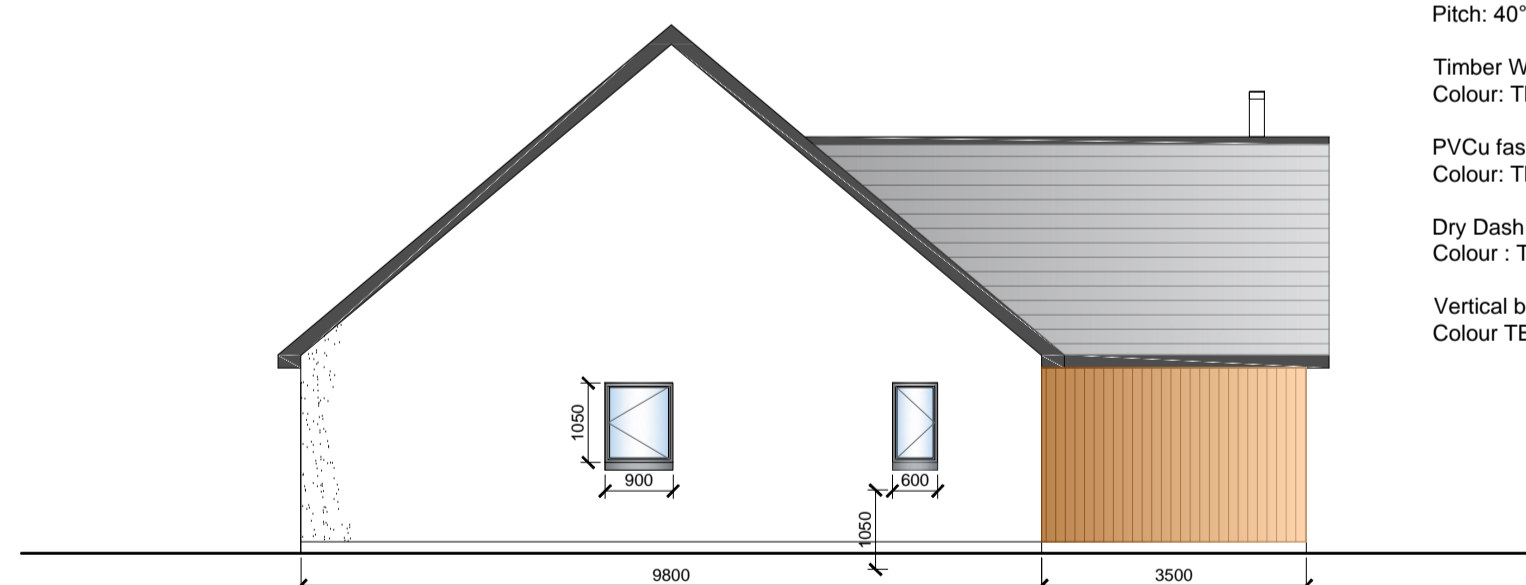
**Floor Plan**

Scale 1:75  
Living Area Approx. 136m<sup>2</sup>  
(excluding garage)



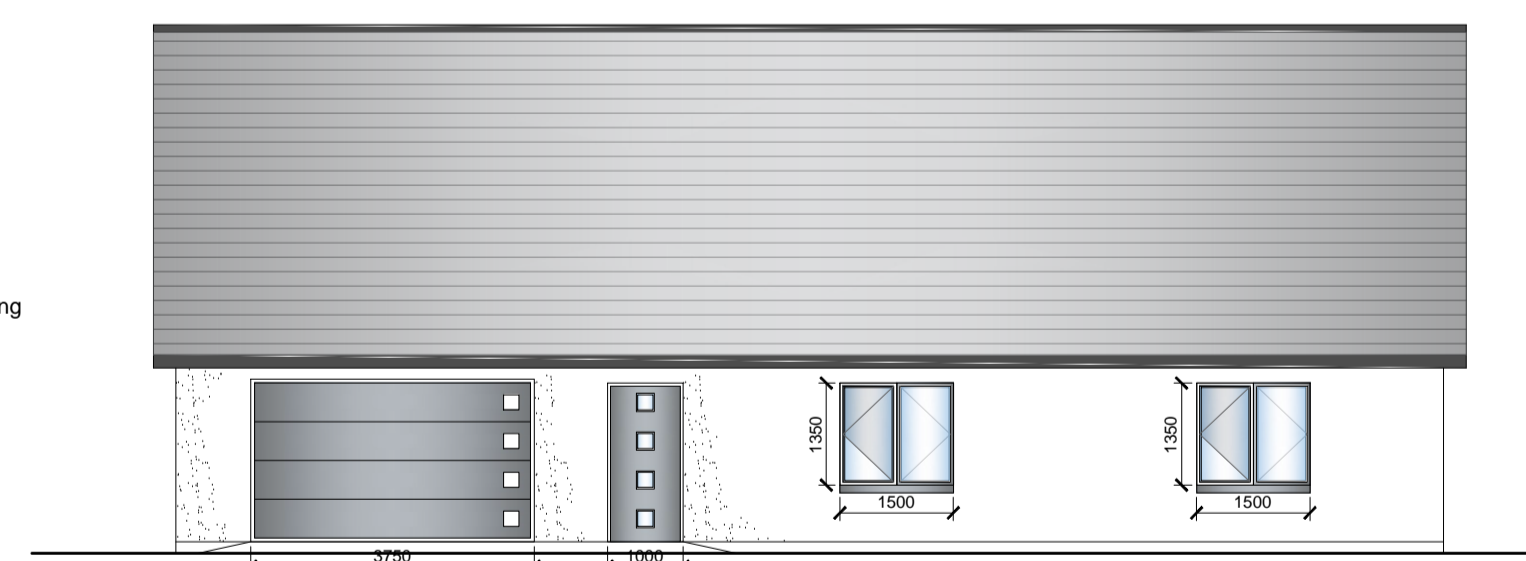
**Location Plan Plot 1 & 2**  
Scale 1:500

**To be read in conjunction with Site Plan 1634 - 100**

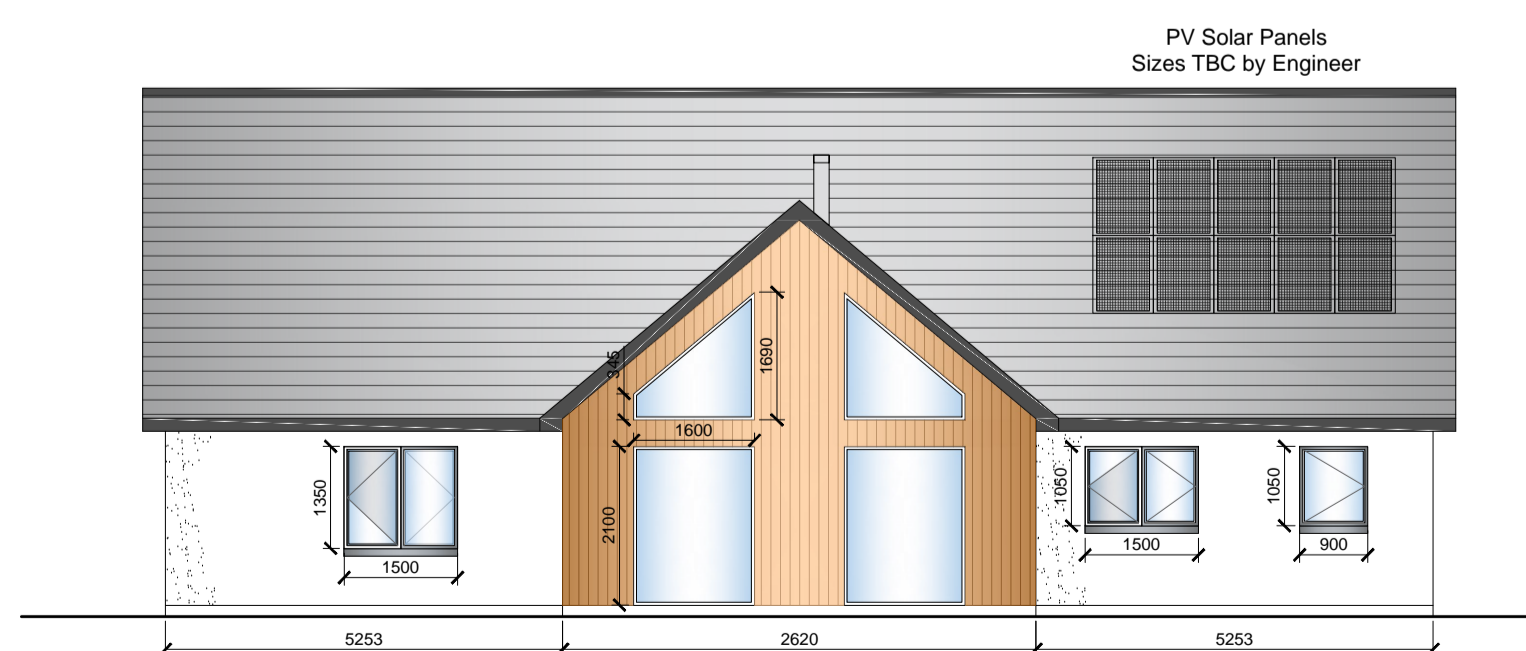


**Right Elevation**  
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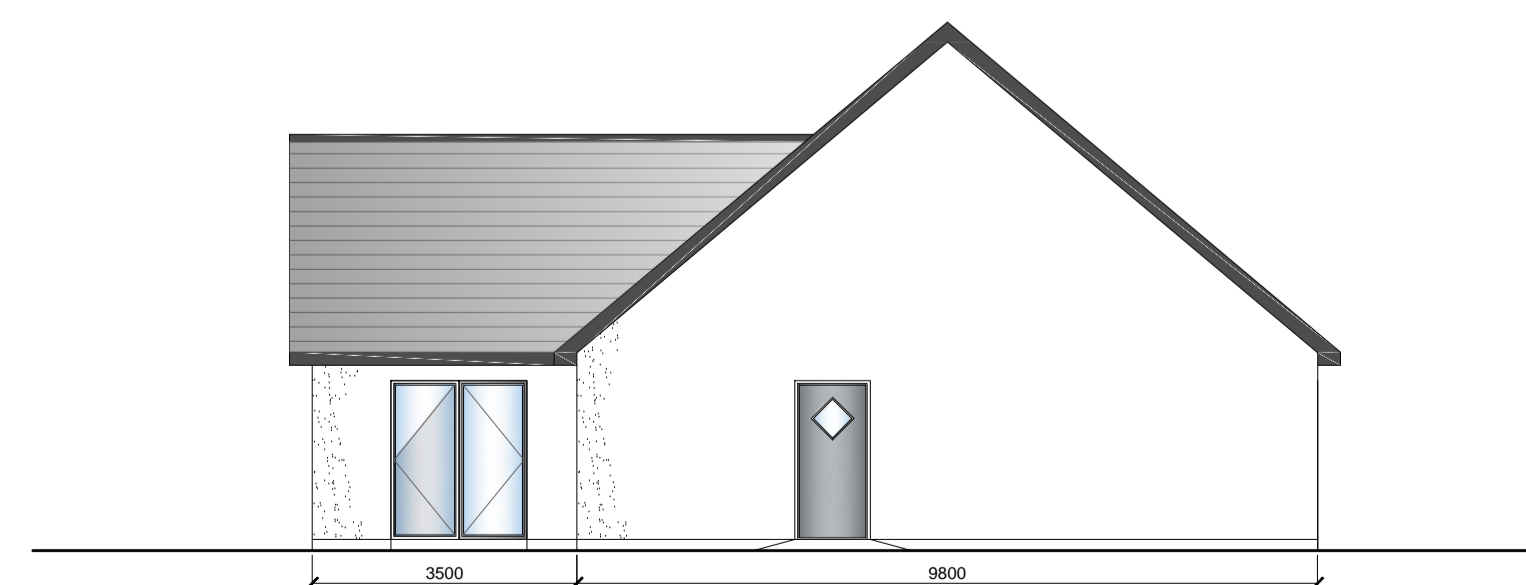
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Pitch: 40°  
  
Timber Windows & Doors  
Colour: TBC  
  
PVCu fascias, soffits and board  
Colour: TBC  
  
Dry Dash Render:  
Colour: TBC  
  
Vertical board on board timber cladding  
Colour TBC



**Front Elevation**  
Scale 1:100



**Rear Elevation**  
Scale 1:100



**Left Elevation**  
Scale 1:100

A: Updated 16.11.17

Rev Date

Drawing status

Client

Mr & Mrs McHardy

Project

Development of 3 new Houses

Lentran

Detail

Plot 1 & 2

Floor Plan and Elevations

Drig No Rev

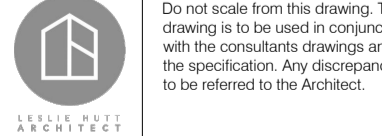
1634 - 101 A

Scale Date

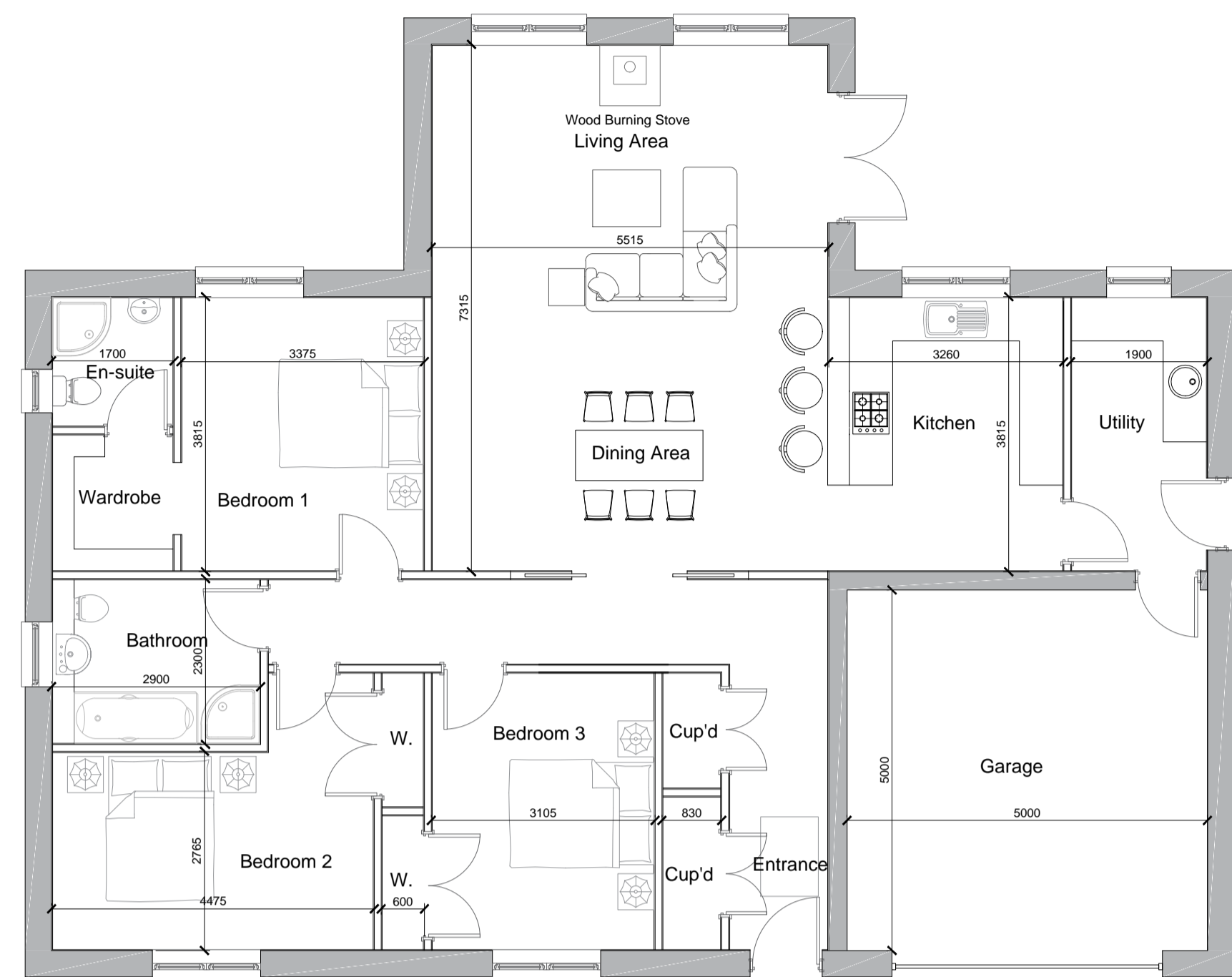
As Noted @ A1 March 2017

Drawn Checked

MM LH



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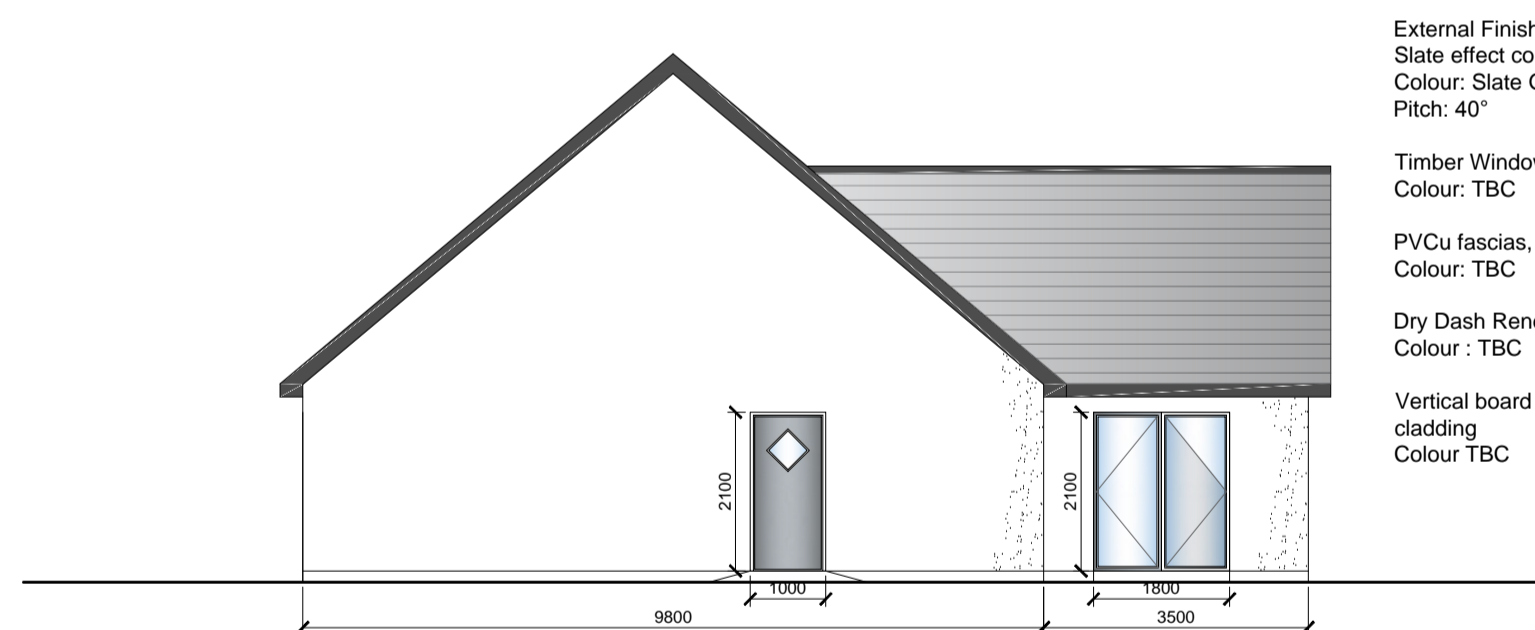
**Floor Plan**

Scale 1:75  
Living Area Approx. 136m<sup>2</sup>  
(excluding garage)



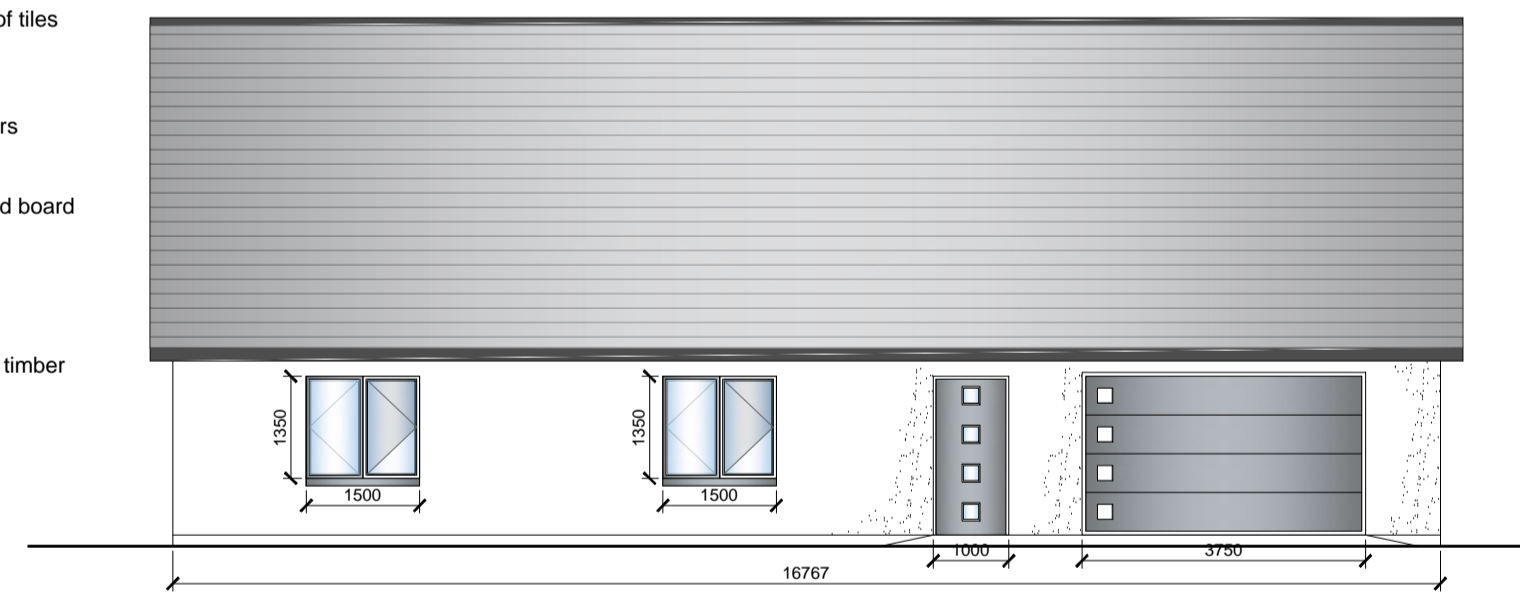
**Location Plan Plot 3**  
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To be read in conjunction  
with Site Plan 1634 - 100

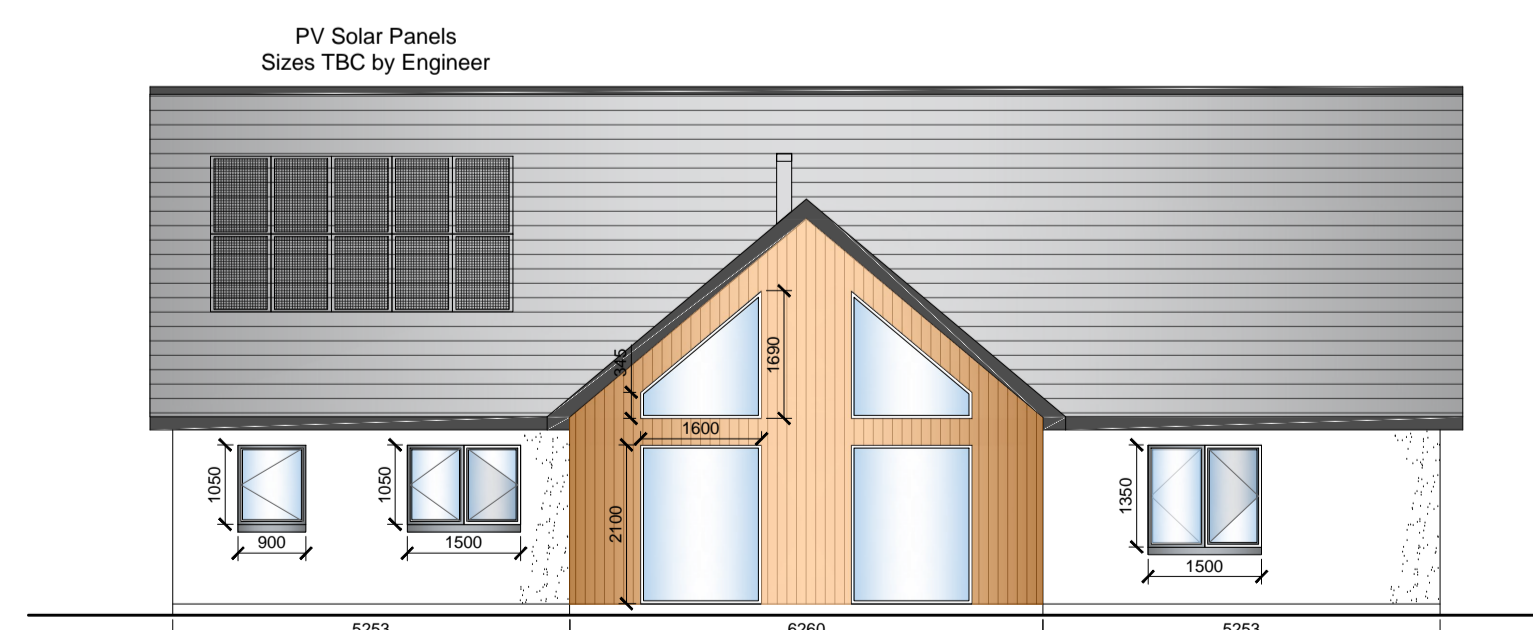


**Right Elevation**  
Scale 1:100

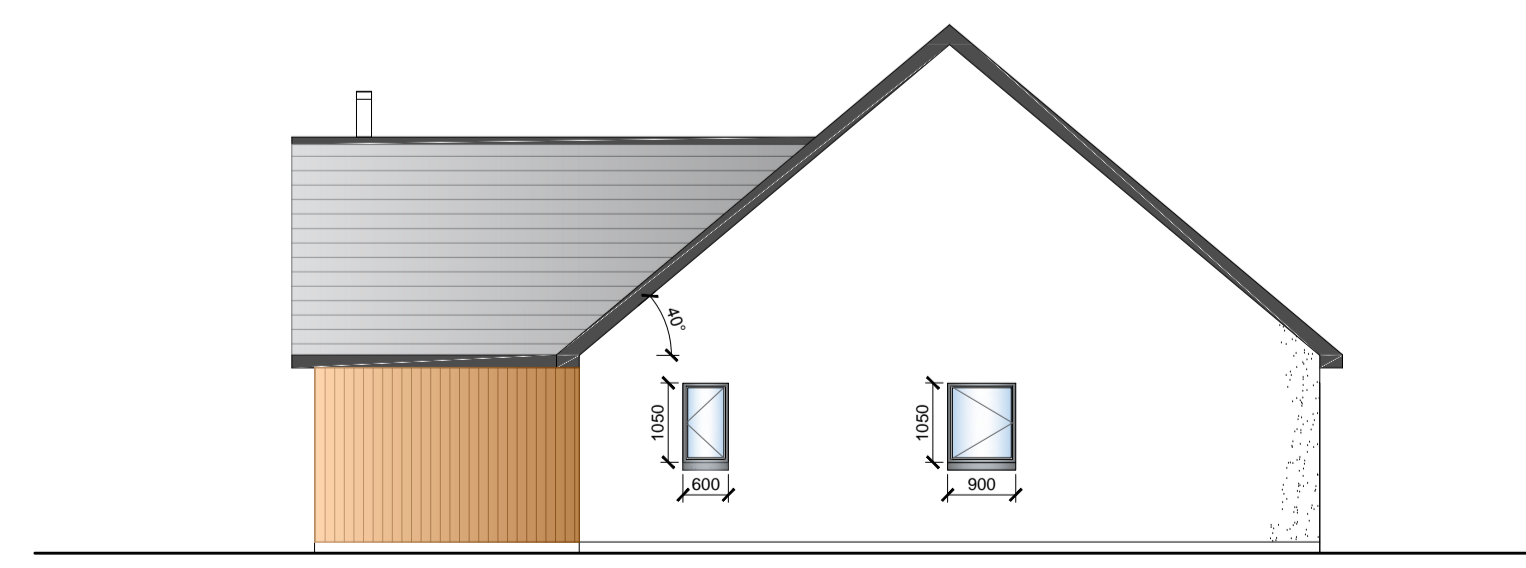
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Colour: TBC  
Vertical board on board timber  
cladding  
Colour: TBC



**Front Elevation**  
Scale 1:100



**Rear Elevation**  
Scale 1:100



**Left Elevation**  
Scale 1:100

A: Updated 16.11.17

Rev Date

Drawing status

Client

Mr & Mrs McHardy

Project

Development of 3 new Houses

Lentran

Detail

Plot 3

Floor Plan & Elevations

Dig No Rev

1634 - 102

Scale Date

1:75 @ A3 March 2017

Drawn Checked

MM LH

Verify all dimensions and levels.

Do not scale from this drawing. This

drawing is to be used in conjunction

with the consultants drawings and

the specification. Any discrepancies

to be referred to the Architect.

LESLE HUTT ARCHITECT

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