

Agenda item	6.4
Report no	PLN/051/18

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 1 August 2018

Report Title: 18/01789/FUL
Land East of Salmon Bothy, Rockfield, Portmahomack

Report By: Area Planning Manager – North

1. Purpose/Executive Summary

1.1 Applicant: Mr and Mrs W Paterson per Planit Highland

Proposal: Erection of holiday letting cabin

Ward: 07 – Tain and Easter Ross

Category: Local

Reason Referred to Committee: More than 5 independent objections to the proposal have been received.

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.

2. Recommendation

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

3. PROPOSED DEVELOPMENT

- 3.1 It is proposed to erect a small holiday letting cabin on land adjacent to Rockfield Pier. The development is designed to provide small scale tourist accommodation and replaces a former fishing bothy that stood on the site and was removed following its collapse. The site has had no structure on it for some period. Materials proposed for the building comprise timber cladding which has been used on similar structures for many years. The scale of the building lends itself to the site and has been positioned on site having taken account of the neighbouring properties and their outlook.
- 3.2 A previous application was received following informal advice (17/02809/PIP) and this was subsequently withdrawn following objection from SEPA concerning a lack of information on flood risk. Further advice was given by the Planning Authority in respect of design and placement on site and the current application was submitted.
- 3.3 The site is accessed via the public road network from Portmahomack; this is a single track public road. An extremely steep section lies immediately to the north of the village where it descends down the raised beach. Access into the site is via a gated opening to the pier area. Drainage is proposed via a septic tank and soakaway and percolation tests have been completed in this respect.
- 3.4 Supporting information on the historic use of the site has been received.

3.5 **Variations:** None

4. SITE DESCRIPTION

- 4.1 The site lies to the seaward side and on the northern end of Rockfield village; above the beach and adjacent to a small pier. Neighbours are predominantly located to the south and west of the site. However, three properties lie to the north of the site an average of 35m away from the proposed building.

5. PLANNING HISTORY

- 5.1 17/02809/PIP - Erection of "salmon bothy" – Withdrawn on 2nd October 2017.

6. PUBLIC PARTICIPATION

- 6.1 Advertised : Unknown Neighbours -
Representation deadline : 25th May 2018
- Timeous representations : 8 Objections from 6 Households
4 Support from 3 households
- Late representations : 0
- 6.2 Material considerations raised are summarised as follows:
- Visual Impact
 - Access
 - Flood Risk
 - Condition of public road

- Impact on European Protected Species – Otter
- Drainage

6.3 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 Development and Infrastructure Service offices.

7. CONSULTATIONS

7.1 **ACCESS OFFICER:** No response from Access officer. It is noted that part of the coastal path lies within the site of application (Core Path Ref: RC38.04). However, the site of application detailed also indicates the ownership of the applicant. The existing fenced area does not encroach onto the path and there is no obstruction to access.

7.2 **SEPA:** No objection. Site level provides a generous allowance above the estimated 1 in 200 year coastal flood level. Given the open coast location it is highlighted that the property may be subject to spray or wave action during storm conditions. Recommend that water resistant materials and forms of construction are used as appropriate.

SNH: No objection. They have advised verbally the area of coast will undoubtedly be used by Otter. However, they are comfortable that there will be no increase in disturbance to the Otter population given the existing uses and a survey is not appropriate. Care should be taken on site to ensure that breeding holts are undisturbed; this requirement is covered by informative.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 29	Design Quality and Place-Making
Policy 34	Settlement Development Areas
Policy 36	Development in Wider Countryside
Policy 42	Previously used Land
Policy 44	Tourist Accommodation
Policy 64	Flood Risk
Policy 77	Public Access

8.2 Inner Moray Firth Local Development Plan (2015):

No site specific policies

9. OTHER MATERIAL CONSIDERATIONS

9.1 Highland Council Supplementary Planning Policy Guidance

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

Sustainable Design Guide (Jan 2013)

Flood Risk and Drainage Impact Assessment (Jan 2013)

9.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (June 2014)

10. PLANNING APPRAISAL

10.1 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.

10.2 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.

10.3 Development Plan Policy Assessment

The site is located within Rockfield village. Whilst not specifically noted on the list of (Policy 3) Other Settlements, defined in the adopted Inner Moray Firth Local development Plan, it lies close to Portmahomack and accordingly it is considered reasonable that Policy 3 is also applicable in this case. The proposed location is the site of a former fishermans "bothy" and under the provisions of Policy 42 – Previously used Land, it is considered that the proposal entails the redevelopment of former brownfield land, does not conflict with provisions of the development plan and where appropriate is also supported under Scottish Planning Policy. Given the relationship of the property to other buildings its restricted plot size that its use for permanent residential use would not be considered appropriate.

10.4 Policy 28 – Sustainable Design lists a number of criteria which all applications are assessed against. Of relevance to this proposal includes use of a brownfield site, compatibility with public service provision, impact on individual and community residential amenity, demonstration of sensitive siting and a high quality design which is in keeping with local character and environments in making use of appropriate materials and contribution to the economic and social development of communities. Policy 29 – Design Quality and Place-making outlines that new development should be designed to make a positive contribution to the architectural and visual quality of the place it is located.

10.5 Consideration must be given to Policy 36 – Development in the Wider Countryside. The site was previously identified as being within the Settlement Development area of Rockfield village (Ross and Cromarty East Local Plan - 2007); this has been superseded and therefore the wider countryside policy applies. The proposal complies with the detail of the policy in that it is acceptable in terms of siting and

design, is sympathetic to the existing pattern of development, is compatible with landscape character, avoids incremental expansion of one particular development type, avoids the loss of locally important croft land and can be adequately serviced.

10.6 Other policies applicable to the assessment of the application are:

Policy 44 – Tourist Accommodation. Development is supported where the Council is satisfied that the proposal can be accommodated without adverse impacts on neighbouring uses, complies with Policy 28: Sustainable design and will not prejudice the residential housing land supply. It is considered that the proposal accords with this policy.

10.7 Flood Risk – Policy 64. Development proposals should avoid areas susceptible to flooding and promote sustainable flood management. The applicant has addressed previous concerns in respect of flood risk by acting on advice received from SEPA. SEPA has no objection to the proposal and welcome the additional allowance that floor levels being set at 5mAOD provides.

10.8 Policy 77 – Public Access. Requires the retention of an existing path (Core) while enhancing its amenity value; or ensure alternative access provision that is no less attractive, is safe and convenient for public use and does not damage or disturb species or habitats. The Core path adjacent to the site has been protected by the attachment of condition No.1, as noted below.

10.9 **Siting and Design**

The site was formerly occupied by a fisherman's "bothy". Following the collapse of this building, the site was cleared. Due to its careful siting and design, the replacement proposed reflects the local character and pattern of existing outbuildings in the village; its design is very much in keeping with the former building. The site is an average of 35m from the nearest neighbours, utilises previously developed land and does not impact on individual or community residential amenity in accordance with Policy 28 – Sustainable Design. The proposal has been assessed on the basis of its intended usage for holiday letting and not for permanent residential use. Given the limited curtilage area and its juxtaposition with other properties its use for anything other than holiday letting would not be considered appropriate.

10.10 **Access and Servicing**

Access to the site is provided via a gated entrance to a fenced area above the pier. The site lies within the village and it is anticipated that the provision of water and electricity is straightforward. Foul drainage discharge is proposed via a septic tank with a ground soakaway (percolation results confirmed that this was a possibility).

10.11 Material Considerations

- Visual Impact – *Planning Response* -The proposed building is very small in scale and is of a traditional appearance; it is similar in appearance to existing outbuildings occupying gardens to the seaward side of the public road through Rockfield village and as such has no more visual impact than these.
- Access – *Planning Response* - Access is provided by the public road network and via a gated entrance to the site. It does not give rise to road safety issues and is acceptable.
- Flood Risk – *Planning Response* - It is acknowledged that there have been instances of storm events (December 2012). SEPA has considered the proposal and has concluded that whilst there is a coastal flooding risk in the area, they are satisfied that the proposal (given the relative ground heights) is acceptable and they have no objection on flood risk grounds. They have provided recommendations that the building should use materials, and be constructed such that they are water resistant.
- Condition of public road – *Planning Response* - The public road serving Rockfield village is poor in respect of its condition. The road is maintained by Highland Council and is part of the ongoing programme of repair. The installation of a small, letting property will add to the traffic on this road but this increase will be very slight and is not considered to be significant.
- Impact on European Protected Species – Otter. *Planning Response* Otters are present in the general vicinity. The site is close to a pier that is often used and close to the public road entering Rockfield. SNH have advised verbally that they do not consider there will be an increase in disturbance to the Otter population given the existing uses and a survey is not appropriate in this instance. Notwithstanding this, care should be taken on site to ensure that breeding holts are undisturbed; this requirement is covered by an informative
- Drainage – *Planning Response* – Foul drainage is proposed via a septic tank and ground soakaway. Various comments have been received with regard to the ultimate efficacy of the drainage system proposed given the proximity to the sea and also that heavy rain causes water to run from the hill and road directly into the site. A Building Warrant will be required and also the agreement of SEPA who regulate private drainage systems.

10.12 Other Considerations – not material

- Ownership of the pier and ongoing access to it – *Planning Response* – Questions over the ownership of the pier and the land have been raised. This represents a civil matter and has no bearing on the planning assessment of the application.
- Use of former bothy – *Planning Response* – The application requires to be assessed as submitted in terms of compatibility of land use.

- Maintenance of the pier – *Planning Response* – It is contended that the applicant has failed to maintain the pier and in particular failed to take steps for repair following the storm of December 2012. The maintenance of the pier is a civil issue and is not a material consideration in the assessment of this planning application.
- Securing Servitude Rights – *Planning Response* – The securing of servitude rights prior to planning permission being granted has been proposed; this is not a material planning consideration and does not preclude determination of the application.
- Doesn't meet the criteria for a brownfield site – *Planning Response* – This site has previously been developed and is next to the pier it is considered to meet this criteria.
- Already a large number of holiday homes in the village – *Planning Response* – This does not represent a material planning consideration.
- Use of the pier by fishermen – *Planning Response* – The proposal does not preclude access to the pier and assurance has been given by the applicant that this will continue. It is understood a fence and gate have recently been erected; this was in response to fly tipping and to prevent further instances occurring. This does not represent a material planning consideration in the assessment of this application.

11. CONCLUSION

- 11.1 The site was previously the location of a small structure serving a fishing operation. Development of a similar scale has previously occupied the site. The proposal meets the policies of the Highland wide Local Development Plan and is appropriate.
- 11.2 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.

12. IMPLICATIONS

- 12.1 Resource – Not applicable
- 12.2 Legal –Not applicable
- 12.3 Community (Equality, Poverty and Rural) –Not applicable
- 12.4 Climate Change/Carbon Clever –Not applicable
- 12.5 Risk – Not applicable
- 12.6 Gaelic – Not applicable

13. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
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. The Highland Council Core Path Ref: RC38.04 (Rockfield to Tarbat) which terminates adjacent to the gated access to the site must not be obstructed or access deterred at any time before, during or after construction. This would include any of the following:-
 - I. The placing of materials on the path
 - II. Allowing water, soil or any other substance to flow or spill onto the path.
 - III. Erecting any fence or locked gates,
 - IV. Prohibitory signs or notices.
 - V. Plant or overhang any vegetation on the path
 - VI. Projections from building
 - VII. Park vehicles or place other structures

Any damage to the route must be repaired to as good or better a standard than pre development.

Reason: To comply with the Council's statutory duty to uphold access rights and for the avoidance of doubt.

2. The cabin hereby approved shall be used solely for the purposes of holiday / recreational accommodation. It shall not be occupied at any time as the sole or main place of residence of any occupant.

Reason: In order to ensure that the cabin is occupied for holiday letting / recreational purposes and not as permanent year round residential accommodation.

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 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 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).

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.

Construction Hours and 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.

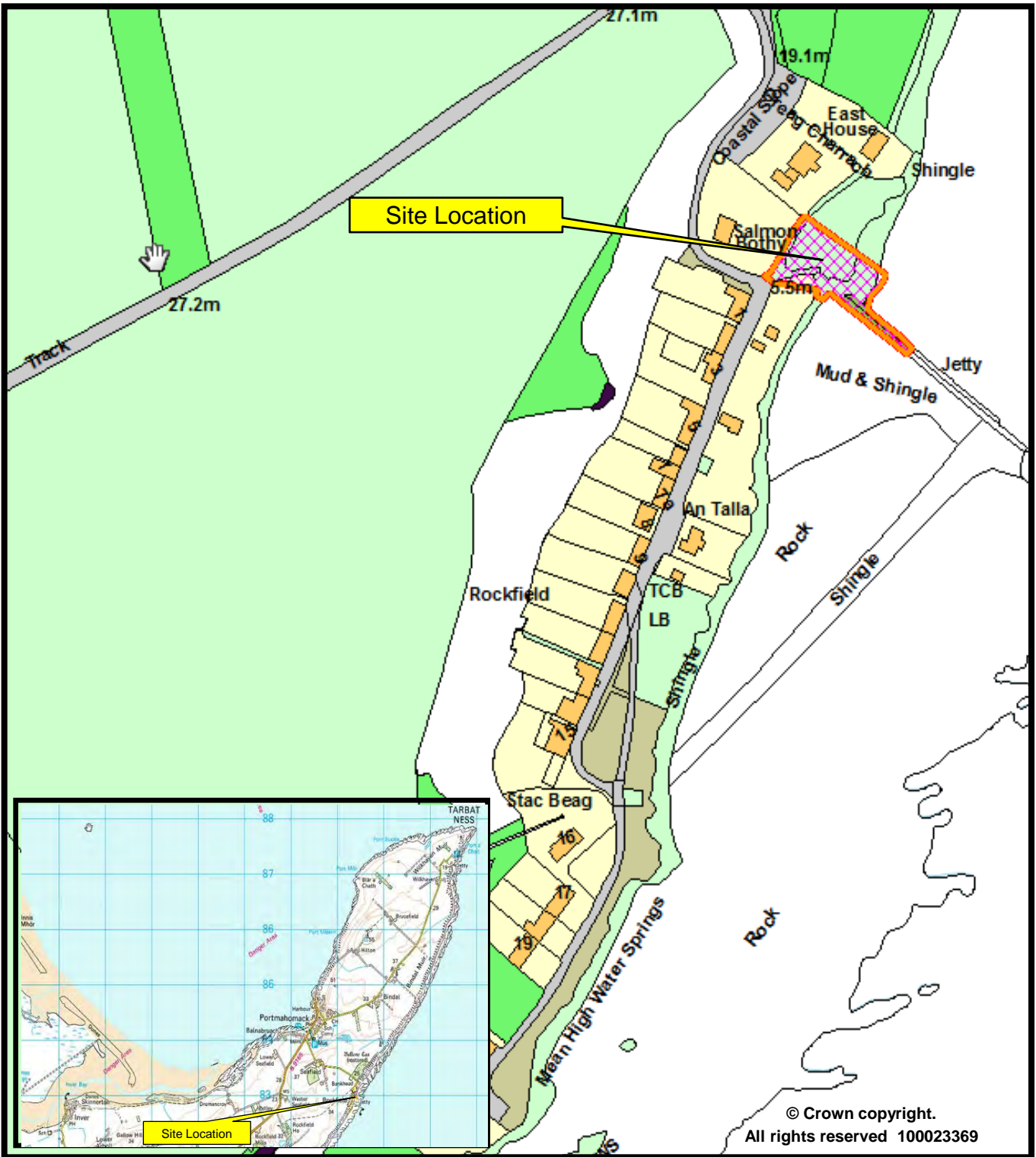
Protected Species – Halting of Work

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

UNDERGROUND ELECTRICITY CABLE

It has been reported that an undergrounded electricity cable runs through the proposed site. It is the responsibility of the developer to make early contact with SSE to obtain advice in relation to their infrastructure and the safeguarding of it and persons working in its vicinity.

Designation: Area Planning Manager - North
Author: David Borland
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Map
Plan 2 – Location Plan 18-241-00
Plan 3 – Site Layout Plan 18-241-01
Plan 4 – Ground Floor Plan 18-241-02
Plan 5 – Elevations 18-241-03
Plan 6 – General Plan 18-241-04



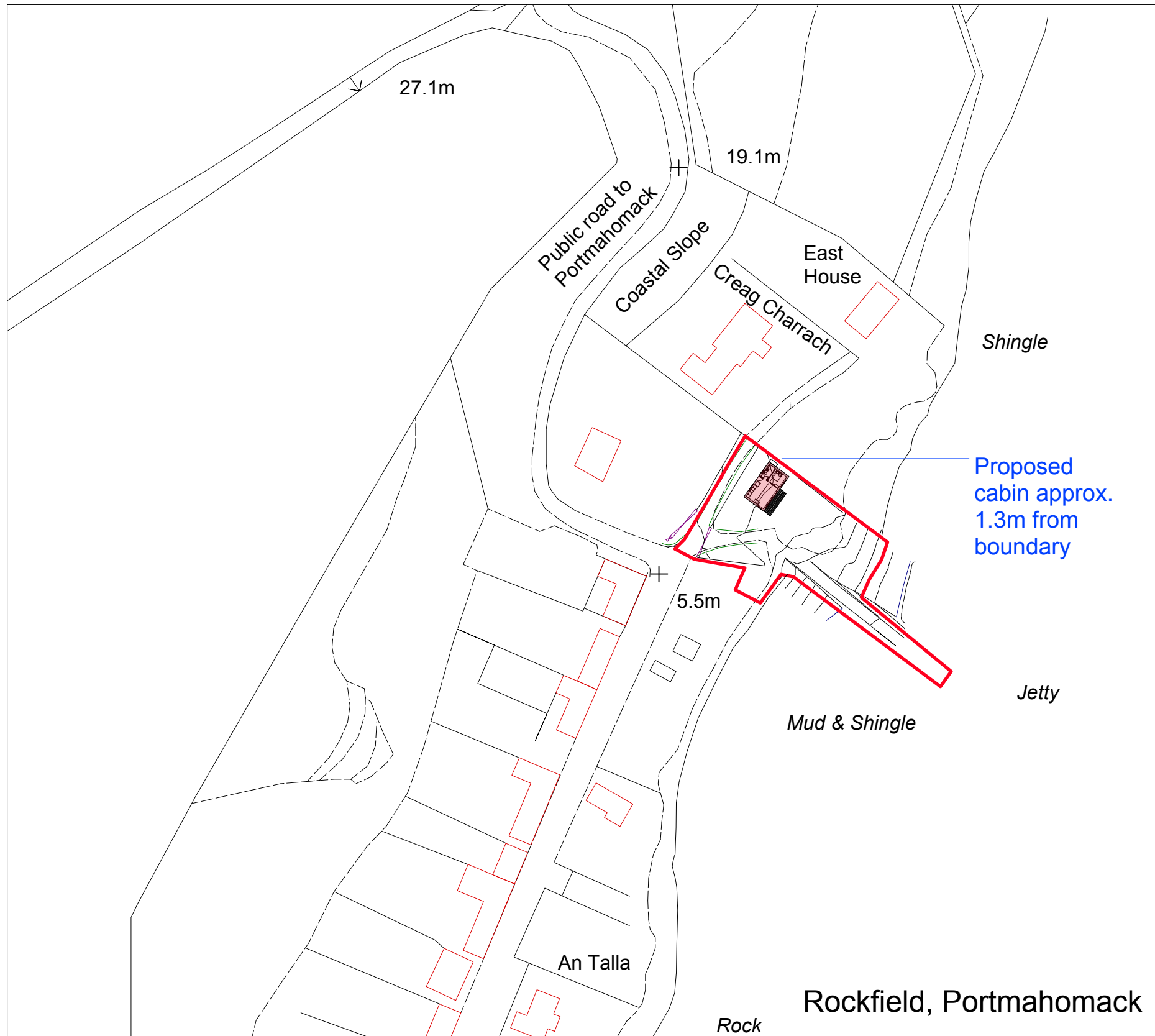
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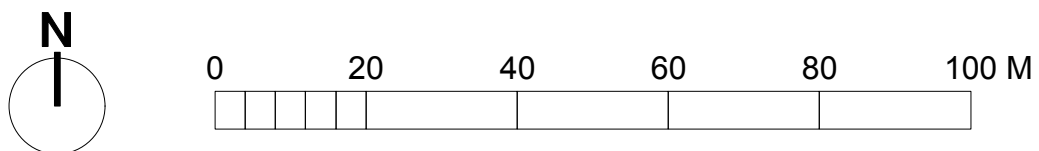
18/01789/FUL
Erection of holiday letting cabin at land 35m East
of Salmon Bothy, Rockfield, Portmahomack.
July 2018





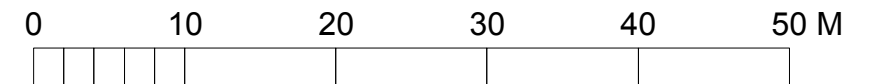
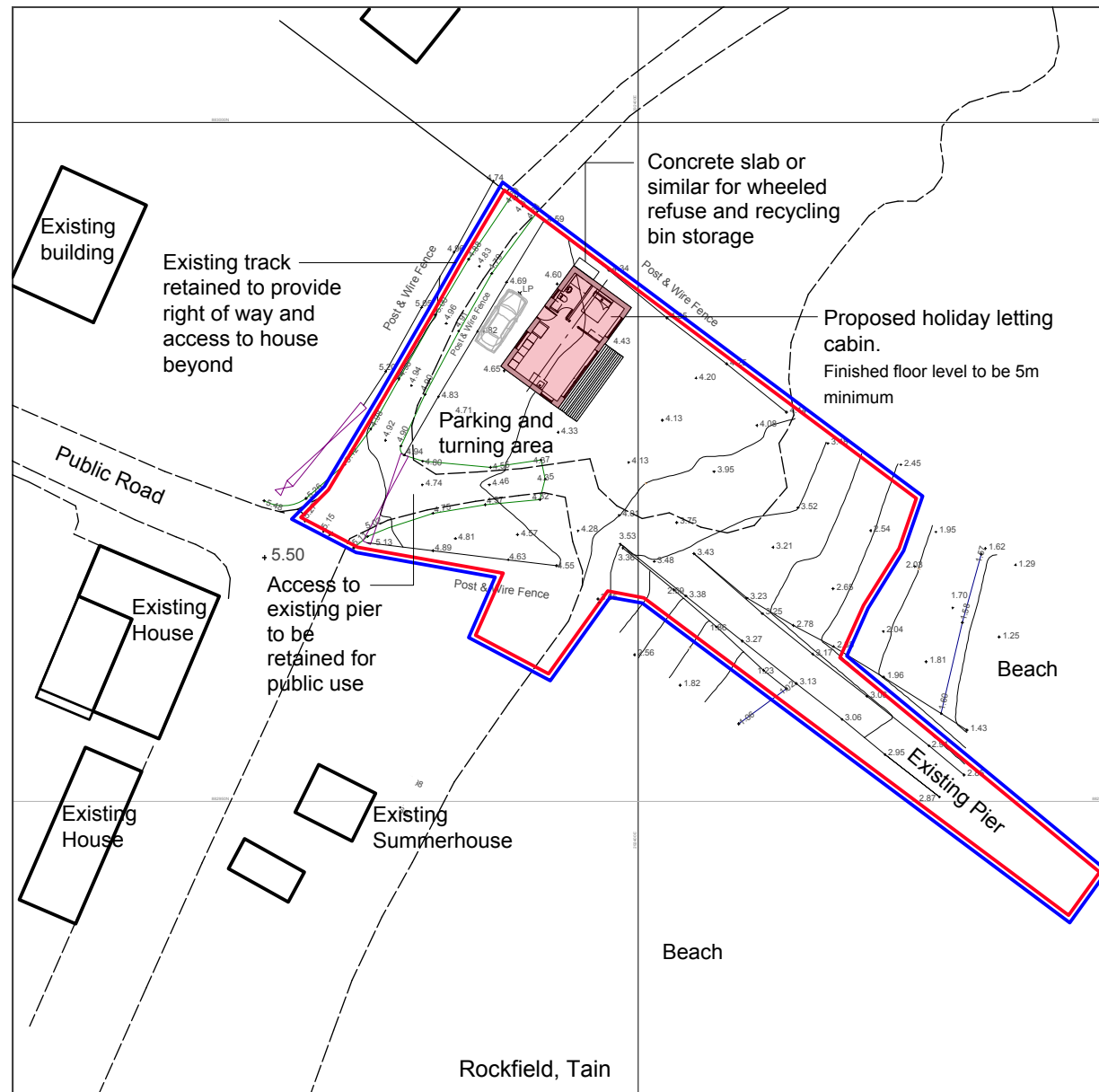
Application Boundary
 0.242 Acres
 0.098 Ha
 980 Sqm

Proposed cabin approx. 1.3m from boundary

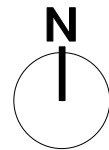


APPLICATION DRAWINGS

Client PATERSON	LOCATION PLAN	MACBEATH ARCHITECTS
Project ROCKFIELD		
Scale 1 : 1000 A3 Sheet size Drawing No: 18/241/00		Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com

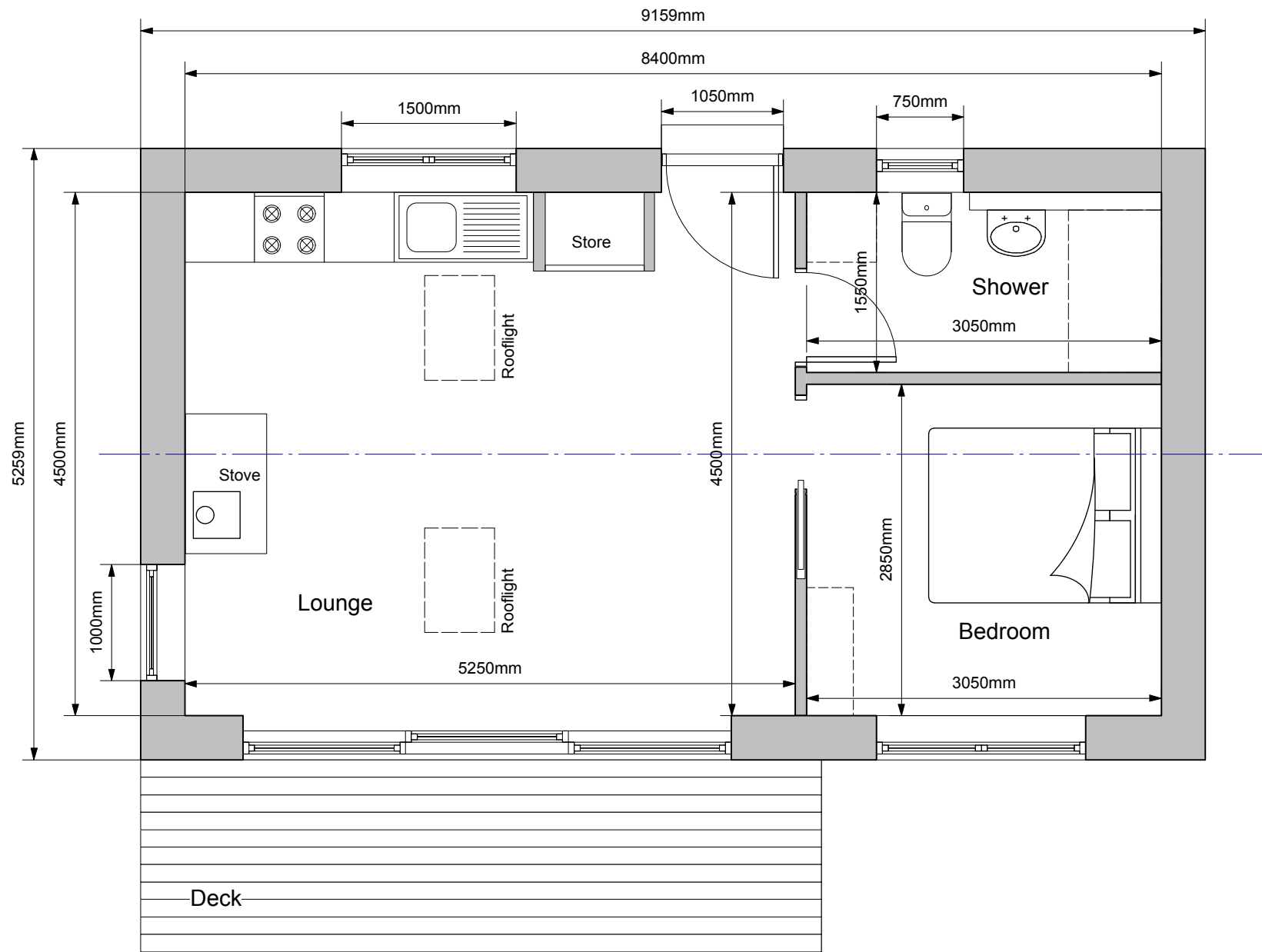


SITE PLAN
Scale: 1:500

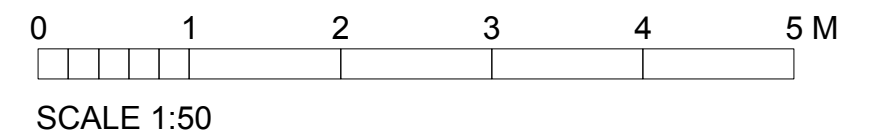
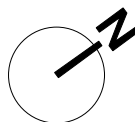


APPLICATION DRAWINGS

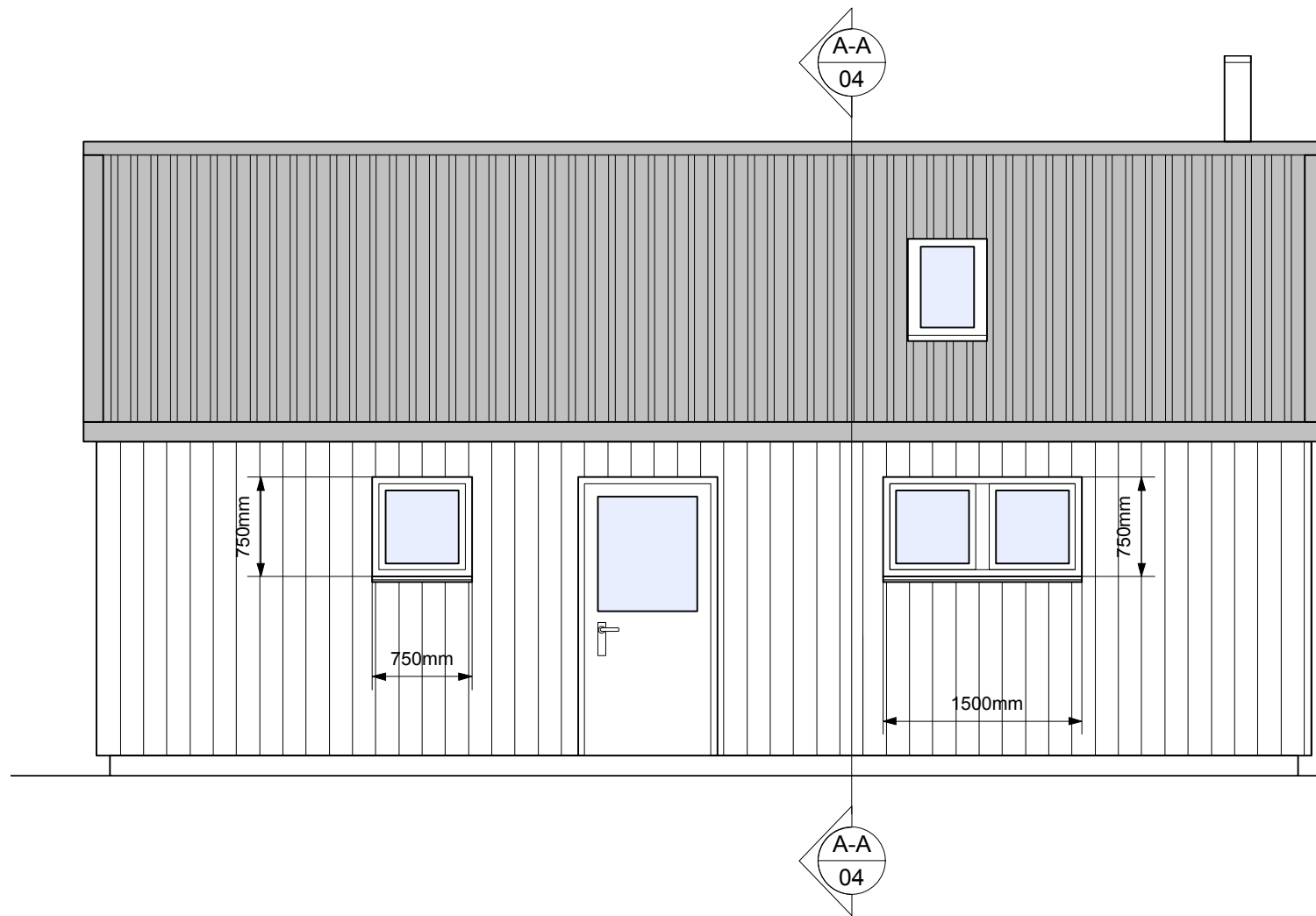
Client PATERSON	SITE PLAN	MACBEATH ARCHITECTS Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com
Project ROCKFIELD	Scale 1 : 500 A3 Sheet size Drawing No: 18/241/01	



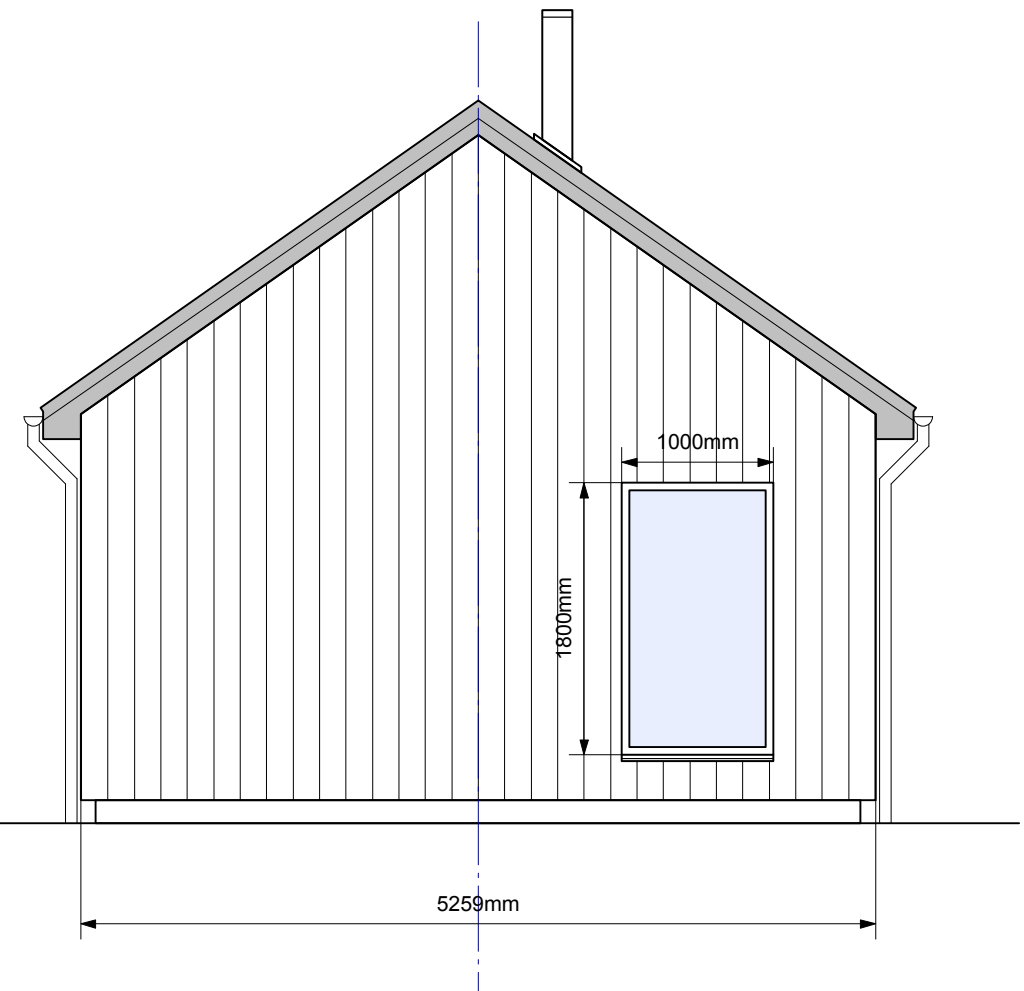
GROUND FLOOR PLAN
Scale: 1:50



Client PATERSON	FLOOR PLAN	MACBEATH ARCHITECTS
Project ROCKFIELD		
	Scale 1 : 50 A3 Sheet size Drawing No: 18/241/02	Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com



NORTH WEST ELEVATION
Scale: 1:50

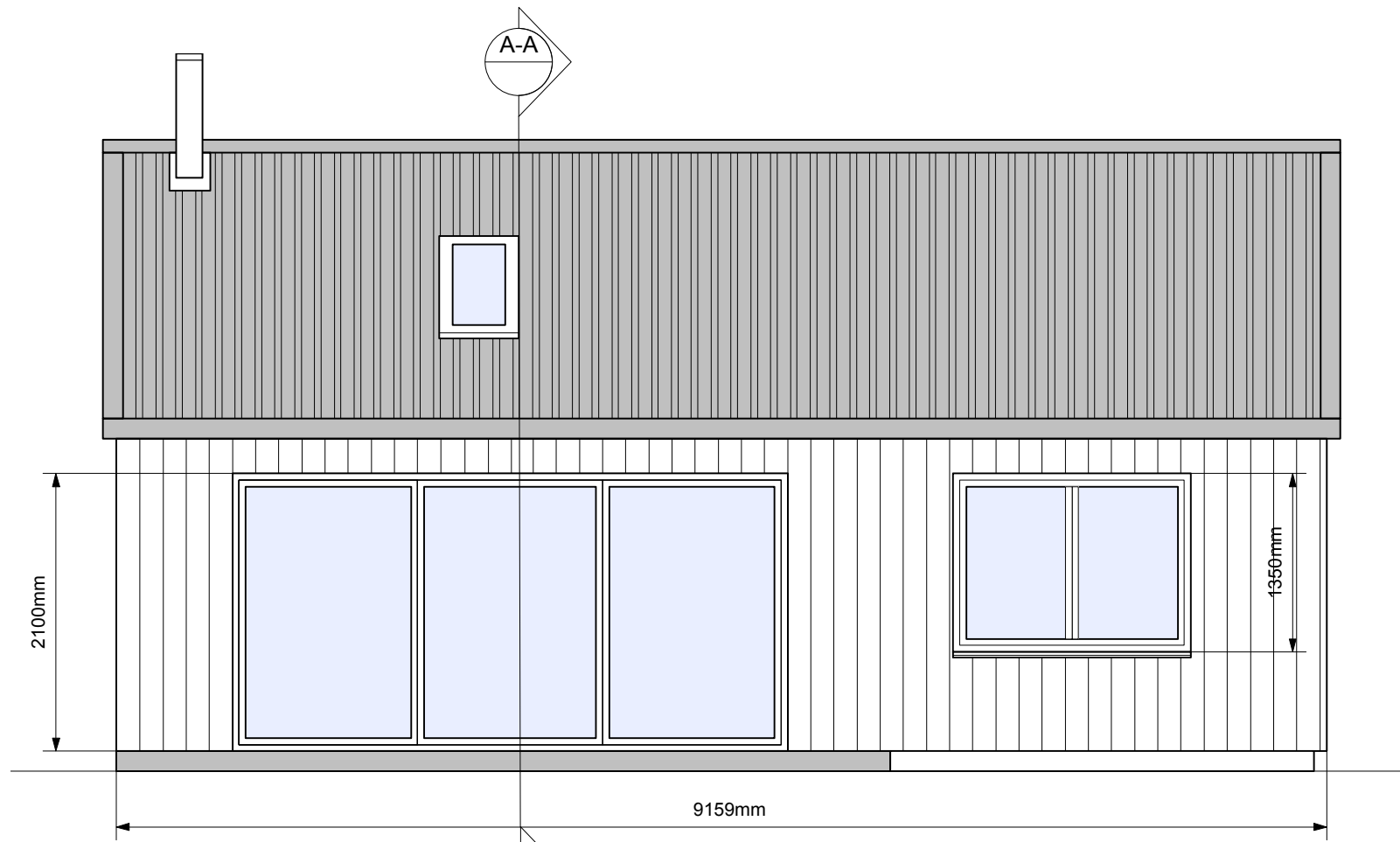


SOUTH WEST ELEVATION
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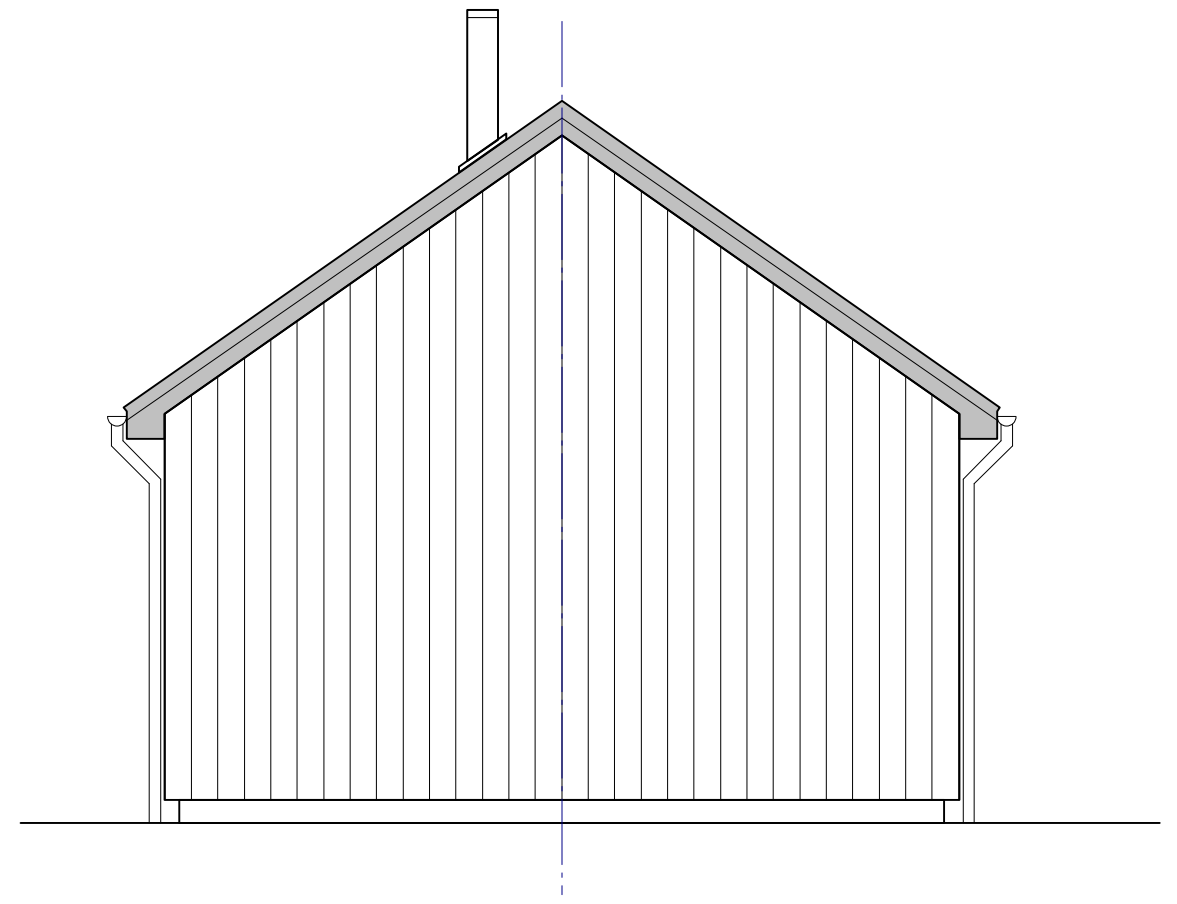


SCALE 1:50

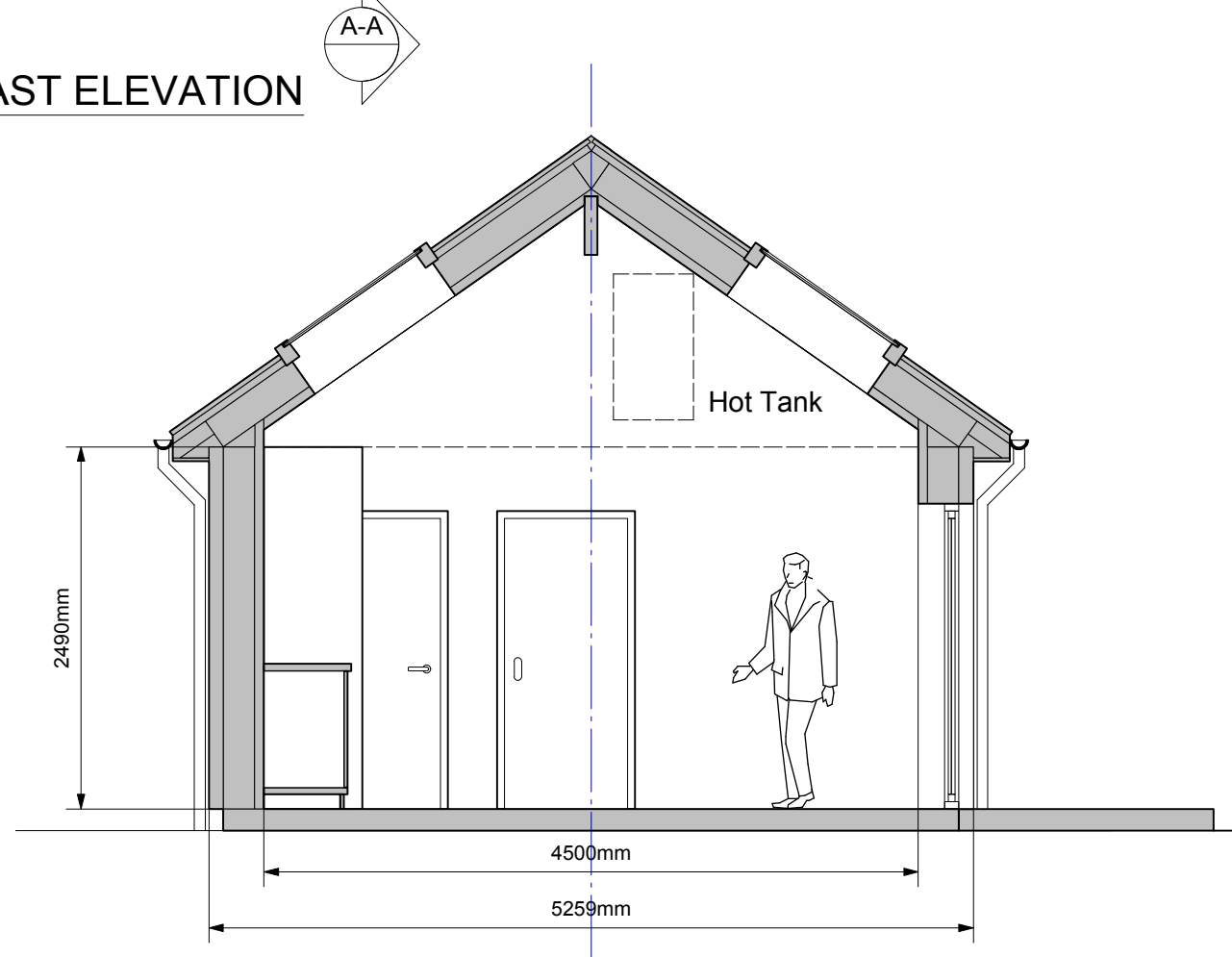
Client PATERSON	FLOOR PLAN	MACBEATH ARCHITECTS
Project ROCKFIELD		
	Scale 1 : 50 A3 Sheet size Drawing No: 18/241/03	Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com



SOUTH EAST ELEVATION
Scale: 1:50



NORTH EAST ELEVATION
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SECTION AT AA
Scale: 1:50



SCALE 1:50

Client PATERSON	FLOOR PLAN	MACBEATH ARCHITECTS
Project ROCKFIELD		
Scale 1 : 50 A3 Sheet size Drawing No: 18/241/04	Morrich House Invergordon IV18 OSA 01349 854590 07793961387 im@kindeace.plus.com www.thermopassive.com	