

Agenda item	6.5
Report no	PLN/036/19

THE HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 9 April 2019

Report Title: 18/03994/PIP, Land 40M SE Of 8 Kyclerhea

Report By: Acting Head of Development Management - Highland

1. Purpose/Executive Summary

1.1 Mrs Margaret Robertson

Erection of house

Ward 10 - Eilean A' Cheò

Local Development

Reason Referred to Committee: Area Planning Manager's Discretion

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 refuse the application as set out in Section 13 of this report.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks Planning in Principle for the erection of a single dwelling house.
- 3.2 No pre-application consultation or discussions took place.
- 3.3 No supporting information has been submitted with the application.
- 3.4 **Variations:** The Location and Site Layout Plans have been amended to increase the size of the plot, which now contains a conventional septic tank and soakaway arrangement instead of an outfall to the river south of the site, and to include a private water supply borehole. Drawing nos. 18-24-03 REV D, 18-24-02 REV D, and 18-24-01 REV C, received 30.10.2018.

4. SITE DESCRIPTION

- 4.1 The site comprises an open area of croft land on the southern side of a private track, some 800m south west of the Kylerhea ferry slipway. Existing houses lie to the south east, west and north of the site. A public right of way in the form of the Kinloch to Kylerhea footpath lies adjacent to the site's western boundary.

5. PLANNING HISTORY

- 5.1 09/00020/FULSL. Erection of single storey house, formation of access and installation of septic tank. Application Permitted 06.04.2019. This consent relates to a dwelling house on the same croft as the current application. The house has been built, and lies some 120m north of the subject site.

6. PUBLIC PARTICIPATION

- 6.1 Advertised : Unknown Neighbour 14 days
Representation deadline : 23.09.2018
Timeous representations : 3 from 3 households
Late representations : 5 from 3 households
- 6.2 Material considerations raised are summarised as follows:
- Loss of Croft Land
 - Insufficient water supply
 - Possible adverse impact from foul drainage
 - Too close to existing houses
 - Damage to existing private track
 - Adjacent to a public footpath
- 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 Planning and Development Service offices.

7. CONSULTATIONS

- 7.1 **Access Officer** : No objection, asks for a condition which prevents obstruction of the adjacent right of way.
- 7.2 **Environmental Health** : No objection, Planning Guidance in respect of Private Water supplies should be applied.
- 7.3 **Crofting Commission** : The Commission advises that it has difficulty in supporting an application which does not specifically identify an operational need for a house on this croft.
- 7.4 **Scottish Water** : No objection, but advise no public water supply in the vicinity.

8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

8.1 Highland Wide Local Development Plan 2012

28	Sustainable Design
29	Design Quality and Place-making
34	Settlement Development Areas
47	Safeguarding Inbye/Appportioned Croftland
65	Waste Water Treatment
66	Surface Water Drainage
77	Public Access

8.2 West Highlands and Islands Local Plan 2010 (as continued in force 2012)

Kylerhea Settlement Development Area

9. OTHER MATERIAL CONSIDERATIONS

9.1 Proposed West Highlands and Islands Development Plan 2017

No relevant policies

9.2 Highland Council Supplementary Planning Policy Guidance

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

9.3 Scottish Government Planning Policy and Guidance

Not applicable

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. In this case the Development Plan is comprised solely of the Highland-wide Local Development Plan, the relevant policies of which are considered below.

10.3 Development Plan Policy Assessment

Relevant Policy

10.3.1 The application site falls within the Kylerhea Settlement Development Area (SDA), so Policy 34 applies. This policy supports development proposals within SDAs if they meet the Design for Sustainability requirements of Policy 28 which seeks sensitive siting and high quality design in keeping with local character and historic and natural environments, and the use of appropriate materials. This Policy also requires proposed developments to be assessed on the extent to which they are compatible with service provision, as well as their impact on individual and community residential amenity. Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern.

10.3.2 Policy 47 states that the Council expects development proposals to minimise the loss of in by/ apportioned croft land. For housing proposals these should be for single houses (with consideration given to the history of development on the croft). All proposals should where possible avoid siting on the better agricultural part of the croft and impeding use of the remainder of the croft.

10.3.3 Policies 65 and 66 state that the Council's preference for private foul drainage – where a connection to the public sewer is not available - is for discharge to land rather than to water, and that surface water drainage should follow sustainable principles.

10.3.4 Policy 77 requires that development proposals should not adversely affect existing rights of public access.

10.4 Policy and Material Considerations

Siting and Design

10.4.1 A dwelling house on this plot would accord with the local pattern of development in this part of the Kylerhea settlement, which features single houses situated near to the existing private track. One of the submitted objections claims that development plan policy prevents houses being situated within 50m of one another, but that is not the case. A previous version of the Local Plan did contain a stipulation in respect of spacing between dwellings, but that was not carried over into the current Development Plan.

- 10.4.2 Conditions could control the precise position of the proposed house within the plot, as well as controlling the design of the structure to ensure that it respects the local building tradition. The proposed building and residential curtilage would be sufficiently distant from the existing public footpath to the west (some 12m) to not impinge upon existing rights of public access.

Neighbour Amenity

- 10.4.3 The centre of the site is some 39m from the nearest existing house, which lies to the west. This distance provides sufficient latitude to position the proposed building within the plot so as not to adversely affect the amenity of this nearest neighbour.

Access and Parking

- 10.4.4 The junction of the proposed site access with the existing track would have visibility of 60m in either direction, which is considered adequate in relation to the low traffic volumes and speeds on this un-metalled track. These visibilities and the layout of the junction can be controlled by condition. The site is large enough to accommodate the necessary car parking and turning areas, and the provision of these spaces can therefore also be controlled by condition.

- 10.4.5 Some of the submitted objections raise concerns about possible damage to the existing track as a result of the development. Any such issue would be a civil matter to be resolved between the various parties responsible for the upkeep of the track, and is therefore not a barrier to the granting of planning permission. The proposed site access junction with the existing track would create a new passing place, to the benefit of existing track users.

Water Supply

- 10.4.6 As noted above, the application has been amended to include a borehole in order to provide a private water supply. There is a comment in the submitted objections that a borehole would not work, but that cannot be known until the borehole is sunk.

Foul Drainage

- 10.4.7 The foul drainage arrangements would be controlled via the Building Warrant process, and would need to conform with the relevant environmental standards in order for a Building Warrant to be granted.

Croft Land

- 10.4.8 HwLDP Policy 47 seeks to protect the viability of crofts by minimising the loss of in bye/apportioned croft land. In this regard, as well as siting which avoids the better quality agricultural land on the croft and any obstruction to the remainder of the croft, the policy also requires that proposals should be for single houses. Additionally, the policy states that previously approved development within the existing croft or its historic boundaries is also a material consideration. Cumulative impact must also be taken into account. There is already a dwelling house on the

applicant's croft (or its original boundaries prior to de-crofting), some 120m to the north of the site. This is the house which was permitted by application 09/00020/FULSL, as listed above.

- 10.4.9 The Crofting Commission note that the submitted site layout plan shows that access to the lower part of the croft would be positioned within the curtilage of the proposed house, and this could lead to future difficulties in accessing the remainder of the croft. However, this application is for Planning in Principle, and the croft access arrangements shown on the submitted site layout are indicative only. There is land in the applicant's control to the west of the application site which could be used for access to the lower portion of the croft and which would be outwith the curtilage of the proposed house. As such, it is not considered that the proposal would necessarily impede access to the lower part of the croft.
- 10.4.10 The Crofting Commission's response states that in terms of agricultural classification the in-bye croft land at Kylerhea – on which this site lies – is classified as Category 5: land capable of use as improved grassland. The Commission advise that such land is regarded as playing an important role in the economy of Scottish Hill lands. In crofting terms they state that it is recognised as being valuable in-bye land, and the Commission note that the Highland-wide Local Development Plan Policy 47 seeks to safeguard such land. The Commission are unclear as to whether there is an operational need for what would be a second house on this croft, but state that it is possible there is no such need in relation to this particular applicant. As such, the Commission states that it has difficulty in supporting an application that does not specifically identify such an operational need.
- 10.4.11 On the basis of this advice it is considered that the proposal conflicts with Policy 47 of the Highland wide Local Development Plan. As set out above, this Policy expects development proposals to minimise the loss of in bye/apportioned croft land. For housing proposals these should be for single houses (with consideration given to the history of development on the croft). This proposal would result is a second house on the historic croft, and would result in the loss of what the Crofting Commission have described as valuable in-bye land from what is already a relatively small croft with limited in-bye land. As such, the application cannot be supported. As noted above, the other key aspects of the proposal, specifically compatibility with the existing pattern of development, access and impact on neighbour amenity are acceptable. In this instance although the proposal is deemed acceptable in terms of other applicable policy considerations, as outlined above, no wider community interest exists with regards to developing this site. The sole reason for refusing this application relates to concerns over its impact on valuable in-bye croft land.

10.5 **Other Considerations – not material**

The possibility of the proposed house being used for holiday letting purposes has been raised by some of the submitted objections, but that is not a relevant planning matter.

10.6 **Matters to be secured by Section 75 Agreement**

Not applicable

11. CONCLUSION

11.1 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.

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 N issued

Subject to the above, it is recommended the application be **Refused** subject to the reason:

1. The proposal is contrary to Policy 47 of the Highland wide Local Development Plan in that the proposed house would be the second dwelling house within the historic croft boundary and its development would result in the unacceptable permanent loss of in-bye agricultural land from a relatively small croft. No proven/recognised community interest has been demonstrated that would justify approval in this context under the terms of Policy 47.

Designation: Acting Head of Development Management – Highland

Author: Graham Sharp

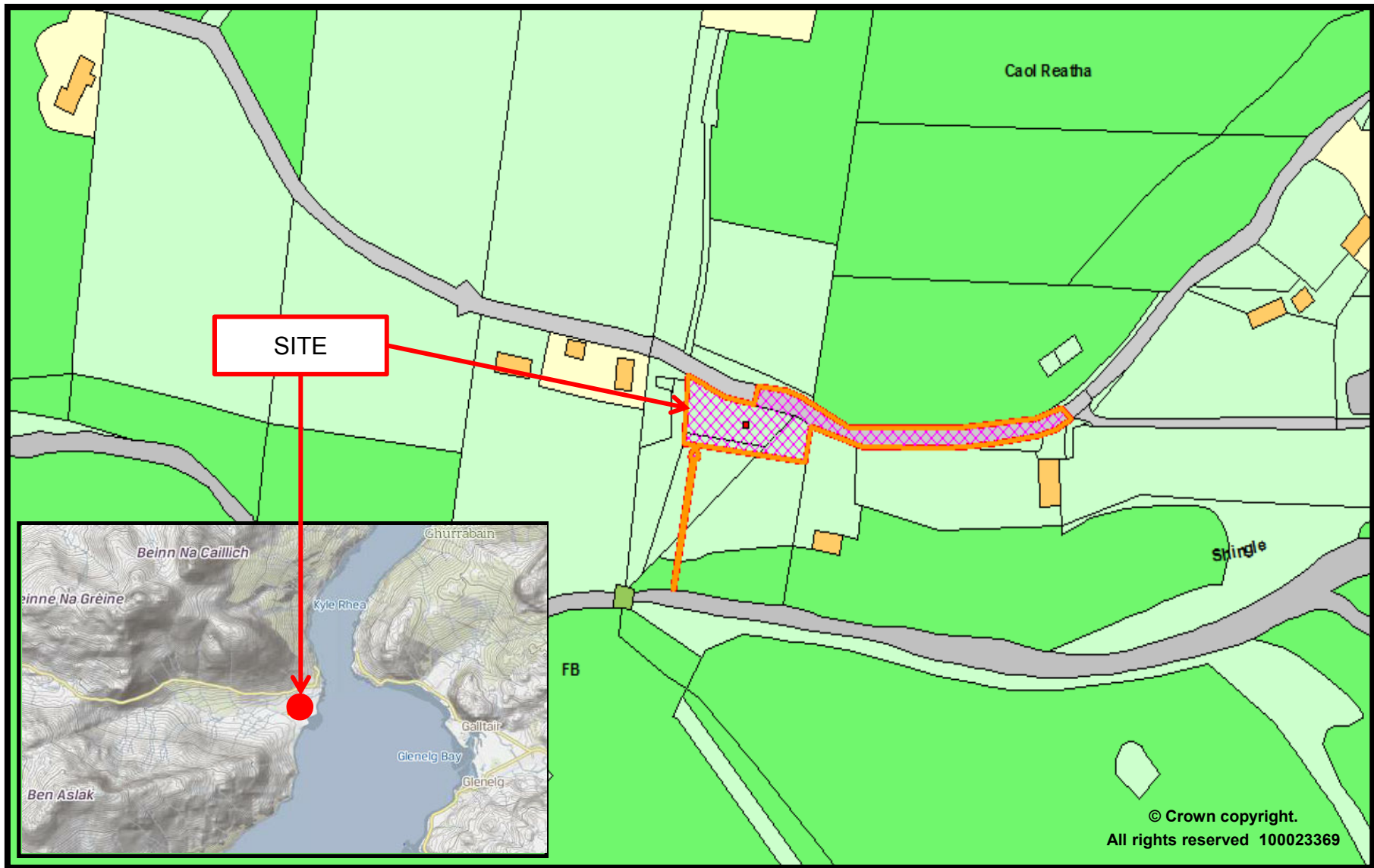
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 – Committee Location Plan

Plan 2 – Location Plan 18-24-03 REV D

Plan 3 – Site Layout Plan (Proposed and Surveyed) 18-24-01 REV C

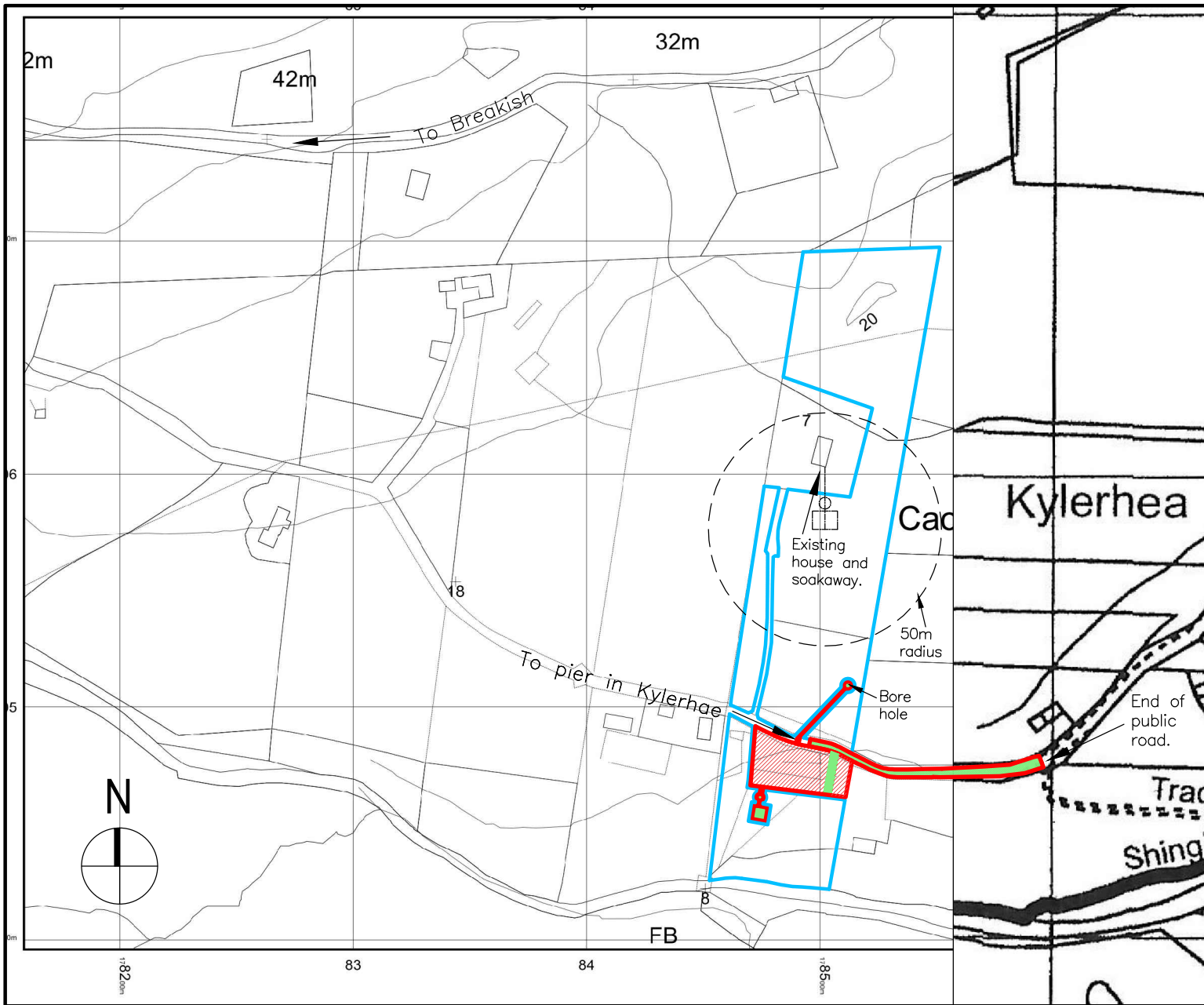
Plan4 – Site Layout Plan (Access) 18-24-02 REV D



The Highland Council
Comhairle na Gàidhealtachd
Planning and Development Service

Location Plan
18/03994/PIP
Erection of house
April 2019

Scale:



REV D

Site boundary

NOTE:

If scaling from drawings use scale ruler to ensure accurate scaling of both originals and copies. Use scale bar as reference check.

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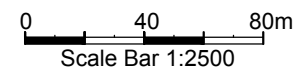
JOB

PROPOSED DWELLING
 AT HOUSE SITE
 CROFT NO 7 KYLERHEA
 ISLE OF SKYE, IV42 8NH
 FOR MRS MARGARET ROBERTSON

DRAWING

LOCATION PLAN

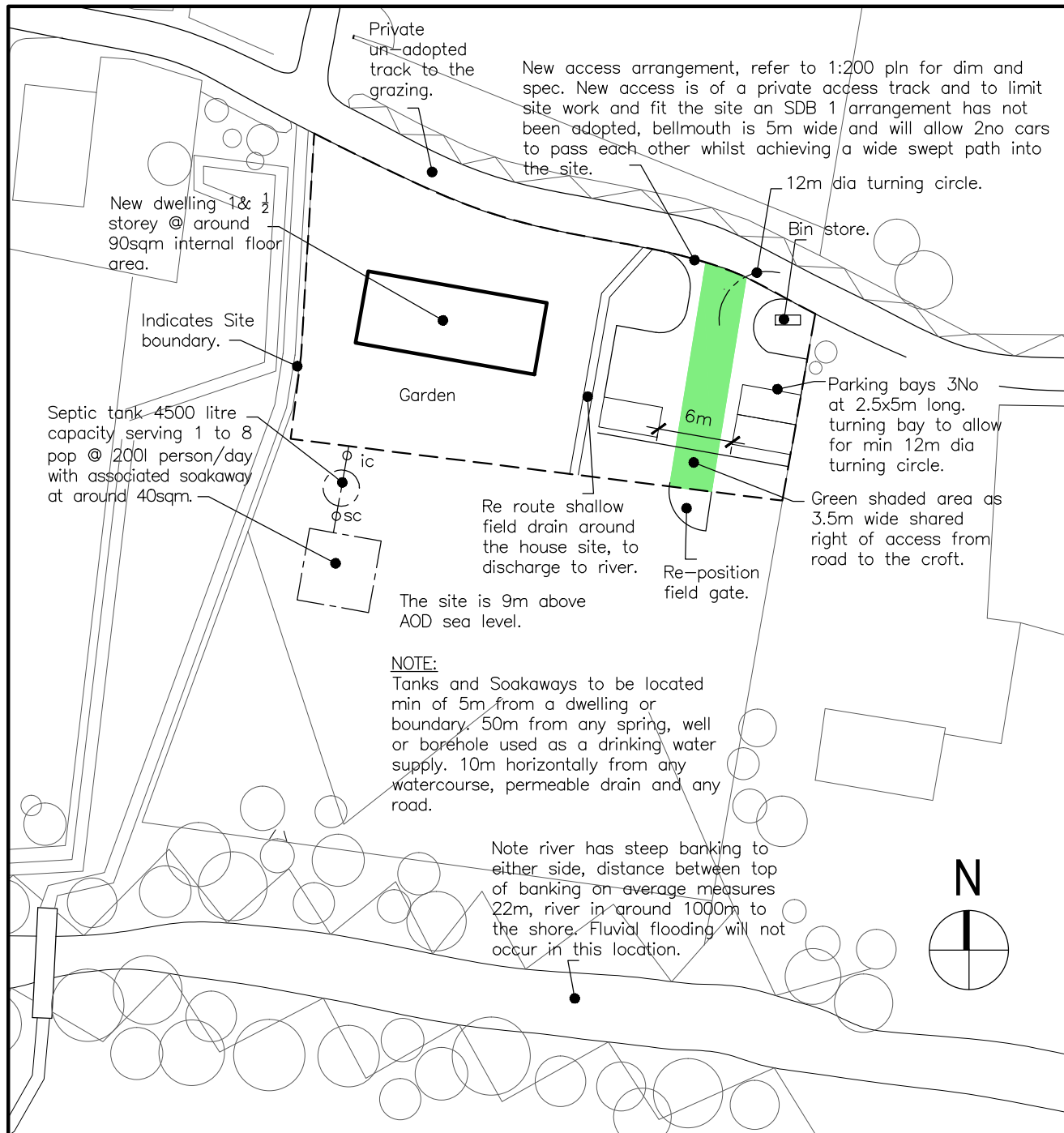
Scale □ As Shown Date □ 19/08/18



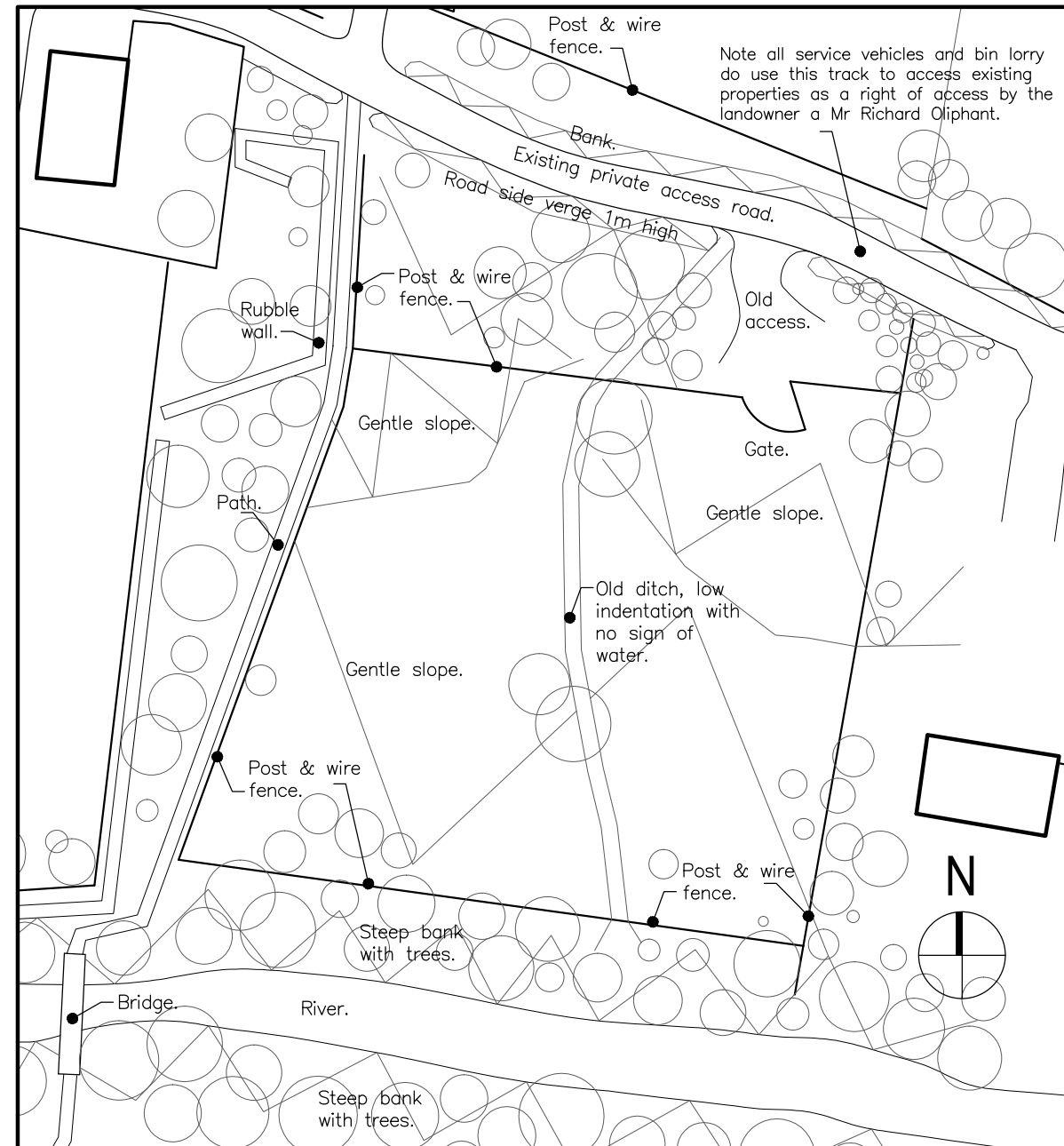
SITE LOCATION PLAN - 1:2500

GRID REFERENCE - E178490 N820480

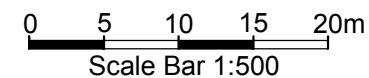
Dwg. No. 18/24/03 – REV D



PROPOSED SITE LAYOUT PLAN - 1:500



SURVEYED SITE PLAN - 1:500



NOTE:
Site survey completed on 16/08/18 by Donald C. MacSween, BSc (Hons) Architecture. Annotated dimensions as shown are measured site dimensions. Dimension units are drawn in meters. Surrounding buildings/ features/ contours taken from current 1:1250 OS Street Map.

REV C

HOUSE MATERIALS
Walls: Wet dash render top coat for light coloured paint finish.
Roof: Natural slate roof.
Windows: Timber or timber effect / alu clad.

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JOB
PROPOSED DWELLING
AT HOUSE SITE
CROFT NO 7 KYLERHEA
ISLE OF SKYE, IV42 8NH
FOR MRS MARGARET ROBERTSON

DRAWING
SITE SURVEY PLANS
SITE LAYOUT PLANS

Scale [□] As Shown Date [□] 19/08/18

Dwg. No. 18/24/01-REV C

NOTE:
If scaling from drawings use scale ruler to ensure accurate scaling of both originals and copies. Use scale bar as reference check.

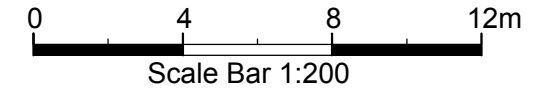
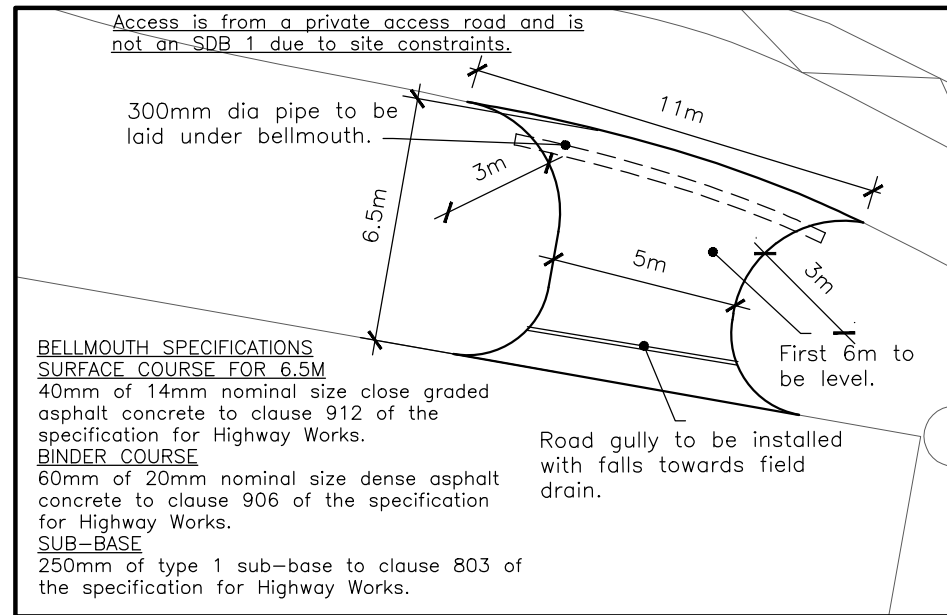
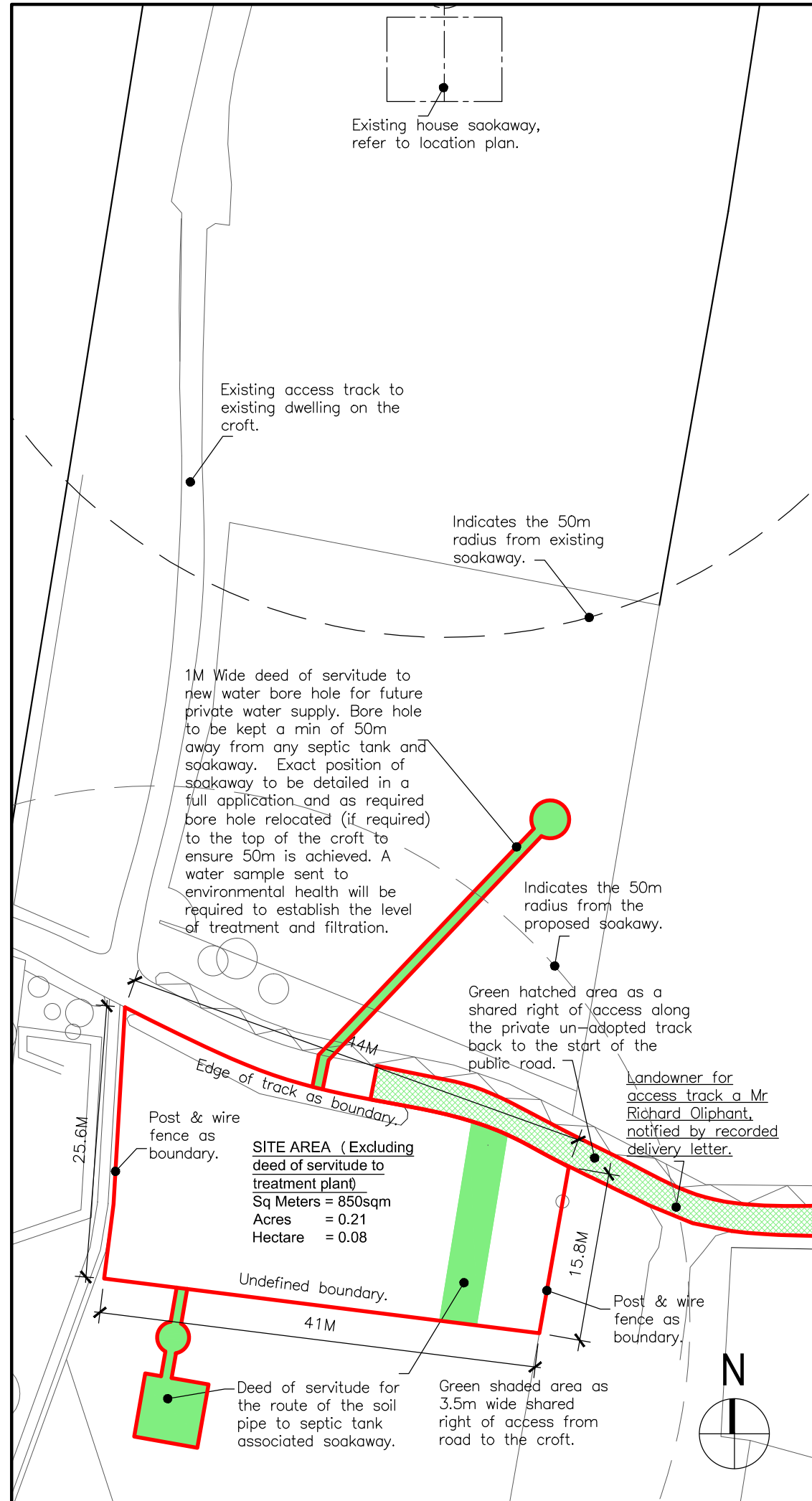
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No	Distribution & Revision	Date
1NO	CLIENT	19/08/18
	REV A - Client instruction to reduce site boundary and re-position as drawn, change to wording on plans.	21/08/18
1NO	CLIENT	23/08/18
	REV B - Soakaway	
	REV C - Client instruction to make site larger in line with original proposal.	29/10/18



SITE PHOTOS

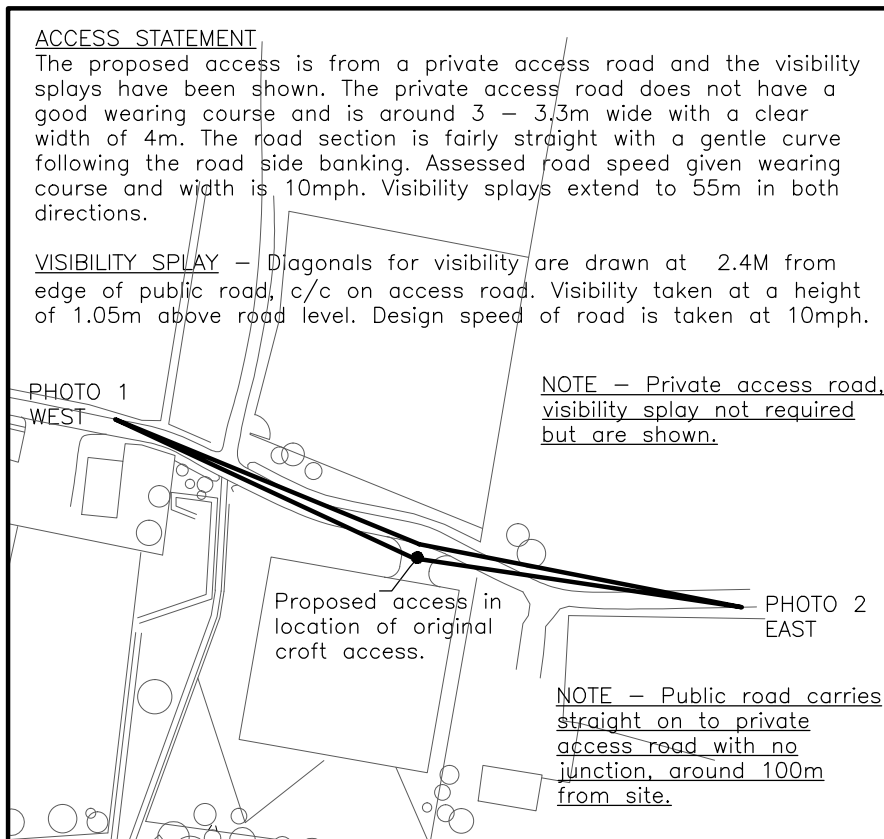
SITE BOUNDARY PLAN - 1:500



BELLMOUTH ACCESS SPEC - 1:200



ACCESS PHOTOS



ACCESS STATEMENT AND VISIBILITY

REV D

NOTE:
 If scaling from drawings use scale ruler to ensure accurate scaling of both originals and copies. Use scale bar as reference check.

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No	Distribution & Revision	Date
1NO	CLIENT	19/08/18
	REV A - Client instruction to reduce site boundary and re-position as drawn, change wording on plans.	21/08/18
1NO	CLIENT	23/08/18
	REV B - Access track boundary in red.	
	REV C - Bore hole	
	REV D - Client instruction to make site larger in line with original proposal.	29/10/18

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 PROPOSED DWELLING
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 FOR MRS MARGARET ROBERTSON

DRAWING
 SITE BOUNDARY PLAN
 ACCESS STATEMENT

Scale □ As Shown Date □ 19/08/18

Dwg. No. 18/24/02 - REV D