

Agenda Item	6.2
Report No	PLS/079/19

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 29 October 2019

Report Title: 19/00280/FUL: Mr and Mrs Ray and Jennifer Thomas
Land 59M N of Benview, Lochyside, Fort William

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Change of use from holiday unit to house and change of use from croft land to garden ground

Ward: 11 - Caol And Mallaig

Development category: Local Development

Reason referred to Committee: Member referral,

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 Planning permission is sought to remove a holiday use only occupancy condition from planning permission 14/01845/FUL which applies to a three bedroom single storey chalet type house in Lochyside. The application also includes the change of use of a small parcel of land north of the unit from croft land to enlarge the residential curtilage of the unit. This is currently open grass land bounded by a timber garden fence at the end of the existing residential curtilage. The property is currently owned and managed as a holiday let by the occupiers of Alveston, adjacent. The original croft is now occupied by 2 unrestricted dwellings, and 2 holiday units: Ben View, which is situated at the front west side of the site; Alveston, which is sited to the rear of Ben View and offset to the NE; the unit which is the subject of this application, which is to the rear of Ben View and NW of Alveston; and a further small holiday chalet, which is sited immediately to the SE of this unit, and to the west of Alveston.
- 1.2 The site is served off the B8006 distributor road through Lochyside and Caol. A single private driveway passes between Ben View and Alveston up the centre of the former croft. There is a garage serving Alveston across on the other, west side, of the driveway and alongside the smaller holiday chalet. The driveway continues past the smaller holiday chalet, which has parking immediately alongside, to the application site which has hardstanding providing parking and turning space around its NE and NW sides. The site is served by existing mains services. Bins are collected from the bottom of the private drive.
- 1.3 Pre Application Consultation: None
- 1.4 Supporting Information: Supporting Statement.
- 1.5 Variations: additional site layout plan submitted 27.6.19 showing the individual residential curtilages.

2. SITE DESCRIPTION

- 2.1 Lochyside comprises a generally linear development of houses fronting onto the road. These are, or were, crofts and many have additional houses on them, either in a "backland" situation, or offset to one side of the croft house.
- 2.2 This unit is 3m from the adjacent smaller holiday chalet, which is also owned and managed by the occupants of Alveston. The unit which is the subject of this planning application was originally 2 separate smaller units, and it was joined up by an extension to form one larger unit under the 2014 planning permission. There were originally 3 one bedroom holiday chalets here, all identical, in a row, which pre-date 2008. It is a generally level site with croftland to the rear. The existing residential curtilage for this unit is largely gravelled. No trees affected.
- 2.3 The area is all within the Fort William SDA.

3. PLANNING HISTORY

3.1	10 Dec 2008	08/00212/OUTLO – demolition of 3 chalets and garage and erection of 2 houses	Planning Permission Granted – not implemented
3.2	27 May 2008	08/00154/FULLO – alterations and extension to Alveston	Planning Permission Granted
3.3	16 Sept 2013	13/01893/FUL – replacement of 2 chalets with a single dwelling house	Planning Permission Granted – not implemented
3.4	7 July 2014	14/01845/FUL – combine two existing timber lodges to form one single letting unit – restricted to holiday occupation only	Planning Permission Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 07.02.19

Representation deadline: 21.02.19

Timeous representations: 0

Late representations: 0

4.2 Material considerations raised are summarised as follows: N/A

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.

5. CONSULTATIONS

5.1 **Crofting Commission** – No reply

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 and Place-making

31 – Developer Contributions

- 34 - Settlement Development Areas
- 44 - Tourist Accommodation
- 47 – Safeguarding Inbye/AppORTioned Croft land
- 74 - Green Networks

6.2 **West Highland and Islands Local Development Plan (WestPlan)**

The croft land to the rear of the built up roadside frontage is shown as “Green Network” on the Fort William Inverlochy map in the West Highlands and Islands Local Development Plan.

6.3 **Highland Council Supplementary Planning Policy Guidance**

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

Developer Contributions (March 2013)

Sustainable Design Guide (Jan 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **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) impact on residential amenity
- c) impact on croft land and Green Networks
- d) any other material considerations.

Development plan/other planning policy

8.4 The loss of a unit of tourist accommodation in favour of its permanent occupancy would not be resisted under policy 44. Either holiday accommodation or permanent accommodation would be acceptable in principle in a settlement

development area, as here, provided it accords with policies 34 and 28. Policy 28 includes the extent to which the development would impact on individual and community residential amenity.

Impact on residential amenity

- 8.5 The 2 existing holiday units are both managed by the occupiers of Alveston. As long as they are both under the management control of Alveston, the standard of amenity afforded to that property is safeguarded, and the occupiers of the holiday chalets would not expect the standard of amenity of those units to be the same as for a permanently occupied dwelling house. The holiday occupancy condition currently provides this control to the occupiers of Alveston. If the occupancy condition was lifted however, and the larger unit was occupied permanently and independently of Alveston, those occupiers would have an unsatisfactory standard of amenity due to the proximity of the remaining smaller holiday chalet. If these 2 properties were under separate control, it is likely that the occupiers of the subject unit would not sit comfortably alongside the remaining holiday chalet. The subject unit would then be independent of both Alveston and the remaining holiday unit, and any occupiers would expect to enjoy a standard of amenity comparable to Alveston and Ben View (and any other permanent dwelling house in a suburban situation).
- 8.6 The larger unit and the holiday chalet are side by side, 3m apart. Whilst it would be possible to erect a fence between them, as proposed by the agent, and this would prevent overlooking (as the properties are single storey), and so safeguard privacy, the proximity, together with the site layout, with the holiday chalet sandwiched in between the subject unit and the garage to Alveston, is considered to be too restricted. This arrangement would be likely to give rise to amenity problems for the occupiers of the subject unit.
- 8.7 Should the remaining small holiday unit be removed, or turned into a domestic outbuilding as part of this proposal, this would overcome the issue, as it would not have as great an impact on the larger unit if it was not used as a holiday let.
- 8.8 The house granted permission under 13/01893/FUL, but not implemented, was to be sited further away from the remaining holiday chalet; 13m separation compared with the 3m now proposed. That site layout was considered acceptable for permanent occupation in terms of amenity.

Impact on croftland

- 8.9 The loss of a small strip of agricultural land, to add it in to the residential curtilage of the application site, would assist in providing a reasonable residential curtilage around the property. The loss of this small piece of croftland would not be significant in functional terms.
- 8.10 Similarly, whilst green networks should be protected and enhanced, the loss of this small strip would not significantly impact on the larger area identified in the emerging WHILD. P.

Other material considerations

8.11 There are no other material considerations.

Non-material considerations

8.12 The issue of land ownership is not a material planning consideration. However the existing holiday occupancy condition effectively ties the existing unit to Alveston. It is the establishment of 3 separate, independent, permanently occupied dwelling units plus a holiday chalet managed by the occupiers of Alveston immediately adjacent that is considered too much given the layout, and likely to give rise to complaints on amenity grounds from either the occupiers of the subject unit, or holiday makers in the adjacent chalet.

Developer Contributions

8.13 Policy 31 requires all developments to make fair and reasonable contributions towards improved public services as required. The following is what would be required in the event that planning permission were to be granted.

If planning permission were to be granted the applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the legal agreement, to deliver to the Council a signed legal agreement. Should an agreement not be delivered within four months, the application shall be refused under delegated powers.

Table 1 - summary of contributions

Summary of Developer Contributions		
Infrastructure / Service Type	Select Answer	Contribution Rate Per Home (a small scale housing discount has already been applied)
Number of Homes Proposed	1	
Schools - Caol Primary		
Build Costs	Major extension / new school	£1,541
Major Extension / New School - Land Costs	Caol, Fort William	£15
Primary Total		£1,557
Schools - Lochaber Secondary		
Build Costs	None - No capacity constraints	£0

Major Extension / New School - Land Costs	None - No land costs required	£0
Secondary Total		£0
Affordable Housing		
CNPA	No	£0
Cumulative Transport		
Development Brief / Agreement Area	None - No cumulative transport costs required	£0
<i>Breakdown</i>	N/A	N/A
	N/A	N/A
	N/A	N/A
Total Per Home		£1,557
Total for Development		£1,557
All costs are subject to indexation (BCIS All-In TPI) and have been indexed to the appropriate quarter.		

9. CONCLUSION

- 9.1 The proposed change from a holiday letting unit to an independent, permanently occupied dwelling unit would be unacceptable by virtue of its relationship with the adjacent smaller holiday chalet, in terms of its close proximity at 3m and the site layout. The arrangement would be likely to give rise to complaints relating to noise and disturbance, and access issues, given the driveway to the proposed unit would pass in between the main house, and garage and remaining holiday let managed by the occupiers of Alveston in a fairly constricted area.
- 9.2 The amenity concerns could not be adequately overcome by planning conditions. The proposed provision of a 2m high screen fence in between the subject unit and the adjacent holiday let would avoid overlooking between these units, and the provision of additional garden land at the rear would ensure a reasonable size of residential curtilage was provided to the unit, however the layout is such that the unit would feel constrained by the adjacent property, Alveston, and it would be overbearing in relation to the remaining holiday chalet.
- 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

It is recommended that the application be Refused for the following reasons:

Reasons for Refusal

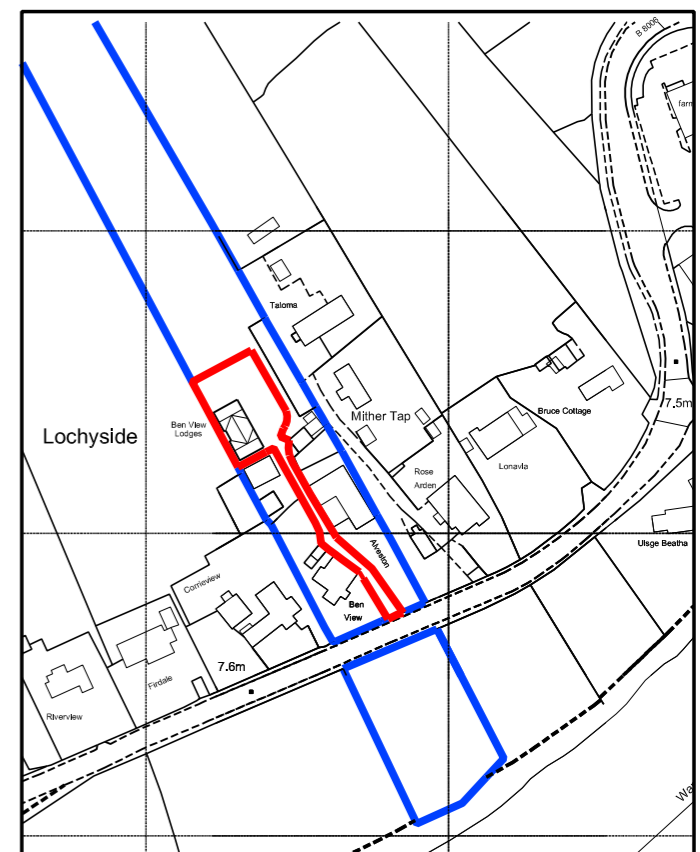
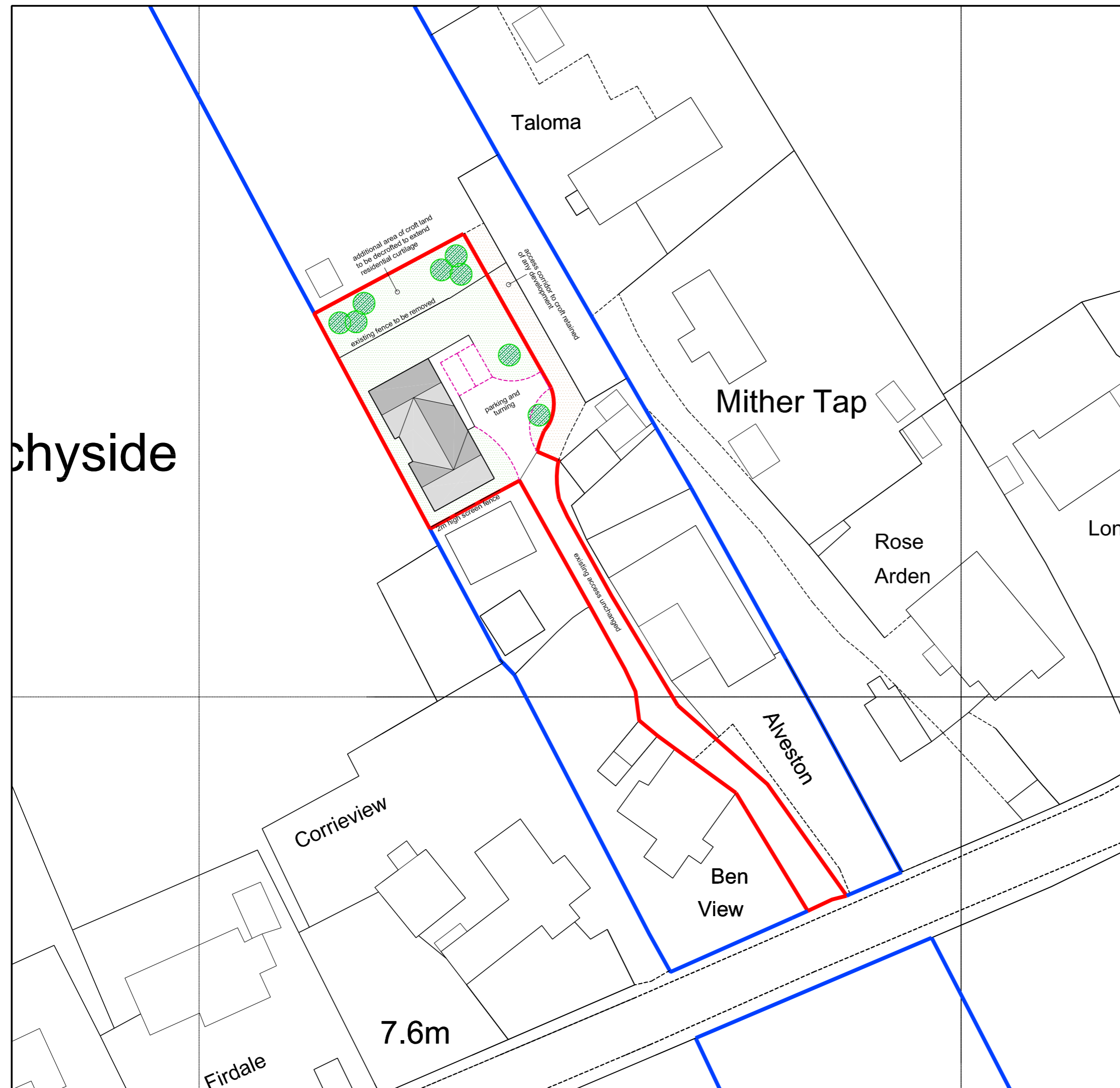
1. The change from a holiday letting unit to an independent, permanently occupied dwelling unit would be unacceptable by virtue of the dwelling's overbearing relationship with the adjacent smaller holiday chalet, in terms of its close proximity at 3m and the site layout, contrary to policy 28 of the Highland wide Local Development Plan. The arrangement would be likely to give rise to complaints relating to noise and disturbance; also access issues, given the driveway to the proposed unit would pass in between Alveston, its garage and the remaining holiday chalet which is managed by the occupiers of Alveston, in a constricted area.

These amenity concerns could not be adequately overcome by the provision of a 2m high fence separating the unit from the remaining holiday chalet, and provision of additional garden ground to the rear.

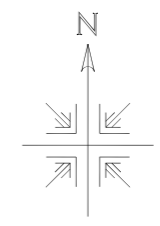
REASON FOR DECISION

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: David Mudie
Designation: Area Planning Manager – South
Author: Lucy Prins
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location Plan 01
Plan 2 - Site Layout Plan 010
Plan 3 - As Existing – Plans, Sections and Elevations



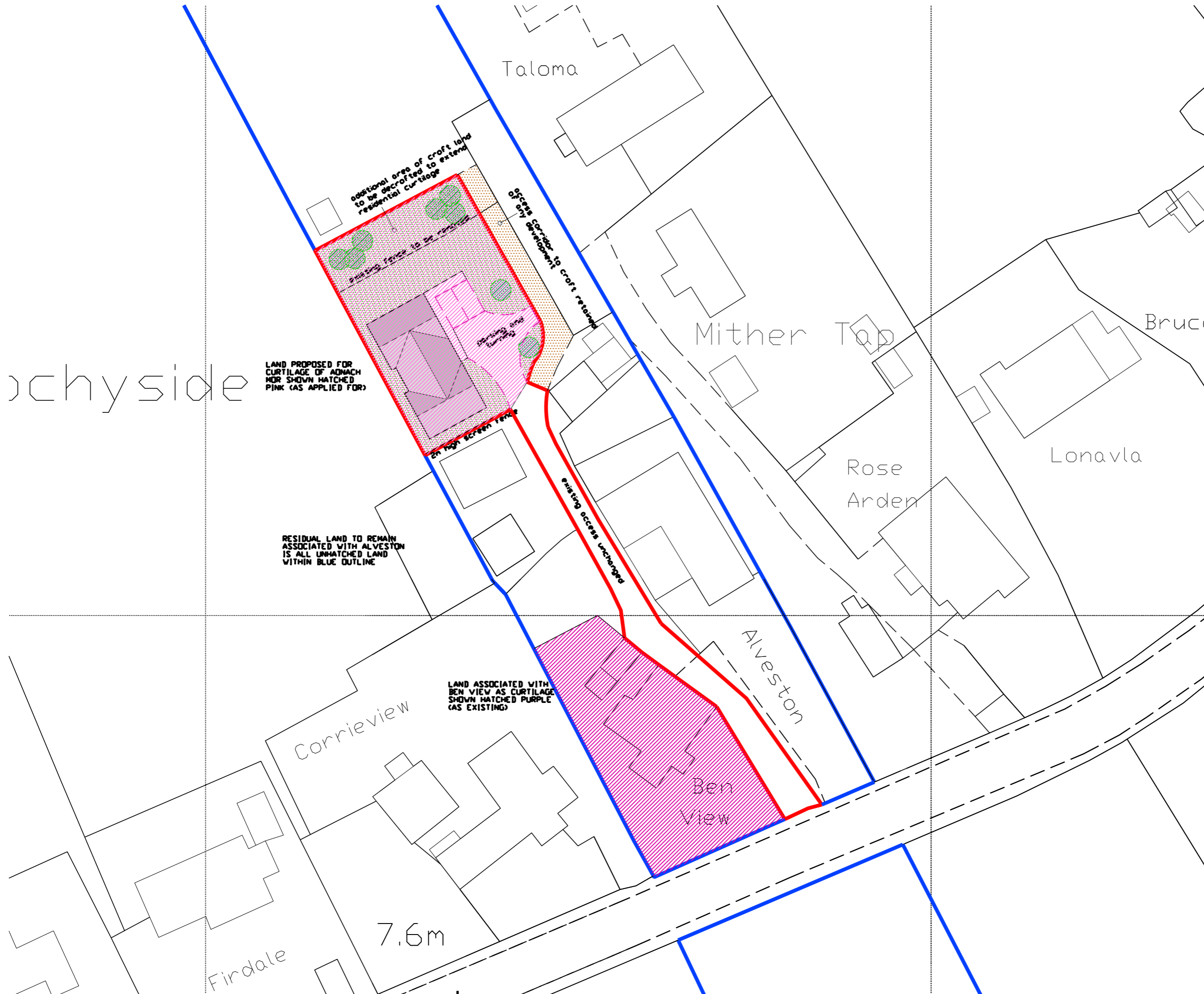
NOTE:
Ordnance Survey 100m grid lines shown in lieu of scale bar



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e. info@fairplanning.co.uk

Project	Change of use of holiday unit to house land at Benview, Lochyside, Fort William	Scale	1:2500 & 1:500 @ A3
		Date	17/01/19
Client	Mr & Mrs R Thomas	Drawn	S.FAIR
		Job No.	2018044
Plan	Site and location plan	Drg No.	01
		Rev.	



NOTE:

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

Written dimensions are to be taken in all cases. Drawings should not be scaled for construction or estimating purposes. In case of doubt, refer to Fair Planning & Design.

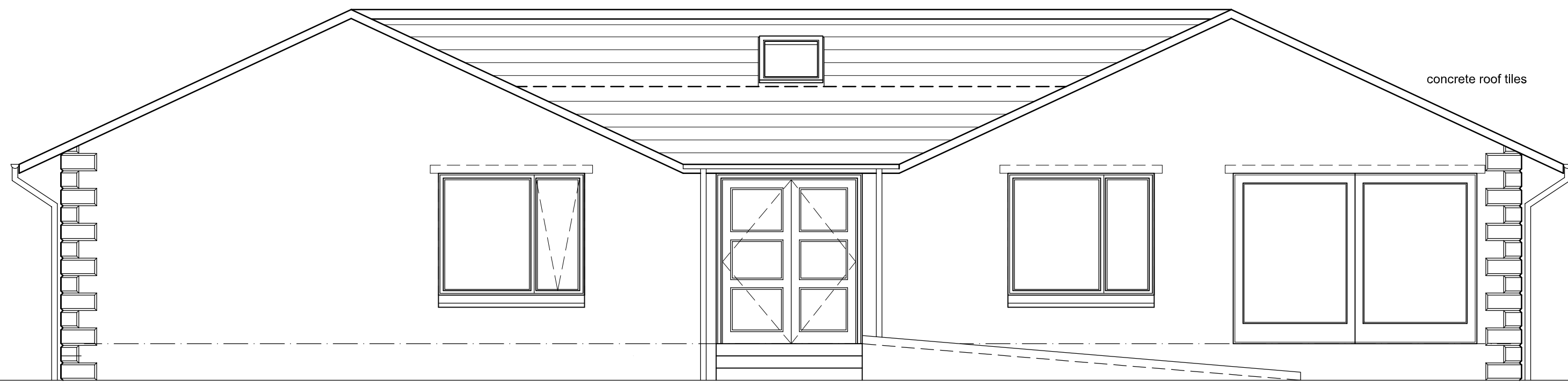
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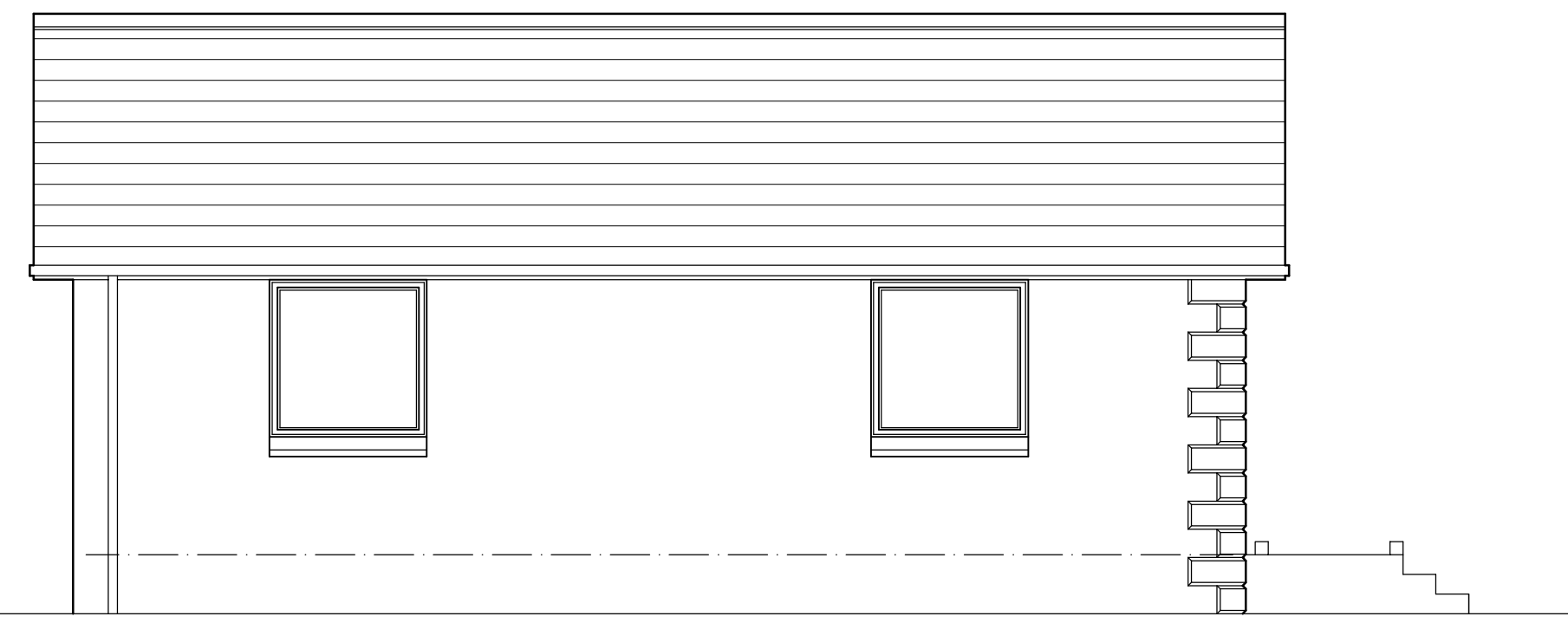
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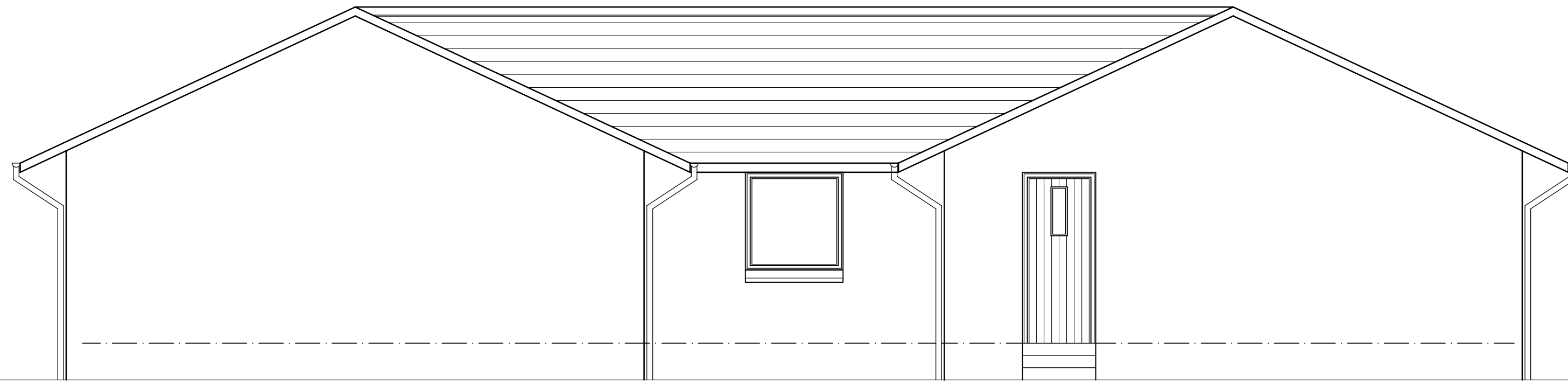
Project	Change of use of holiday unit to house Land at Benview, Lochyside, Fort William	Scale	1:500 @ A3
Date		Date	26/06/19
Client	Mr & Mrs R Thomas	Drawn	SF
Job No	2018044	Check	
Drawing Title	Site plan showing residential curtilages	Page No	010
		Rev	XXX



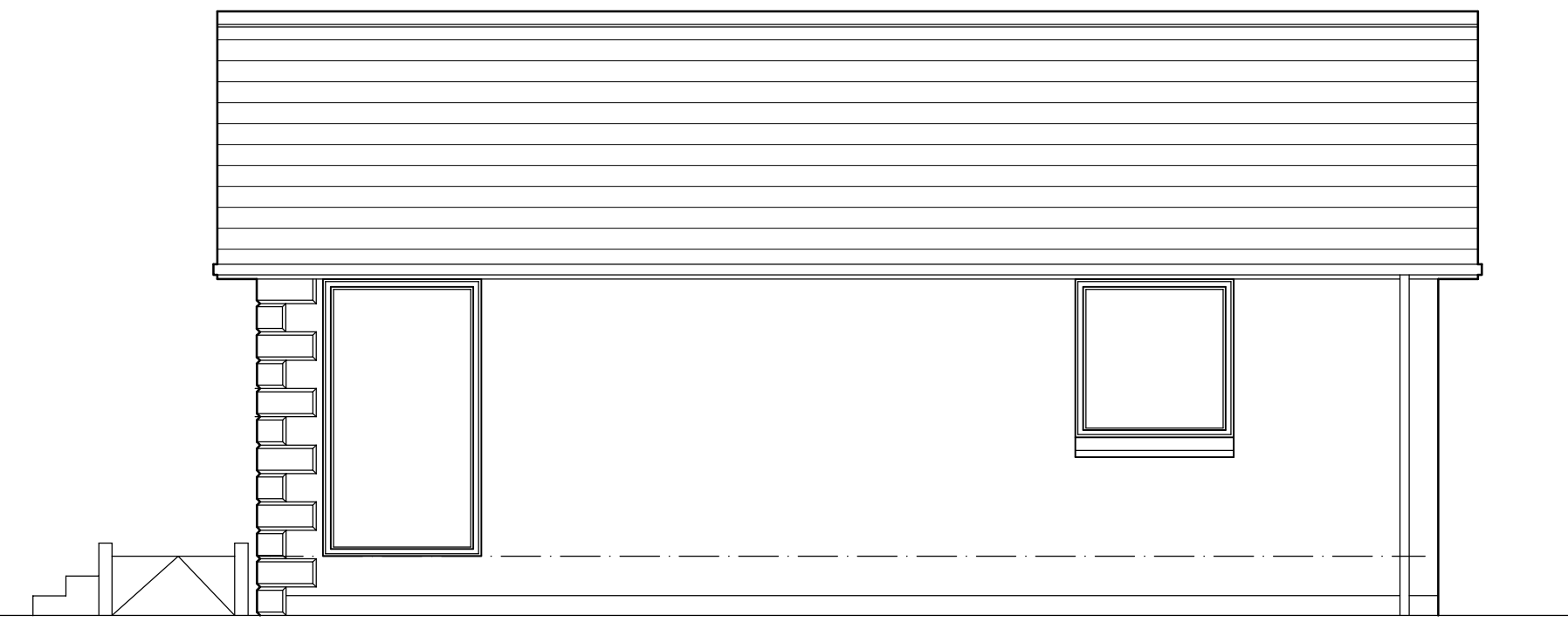
NORTH EAST ELEVATION
0 1 2 3 4 5



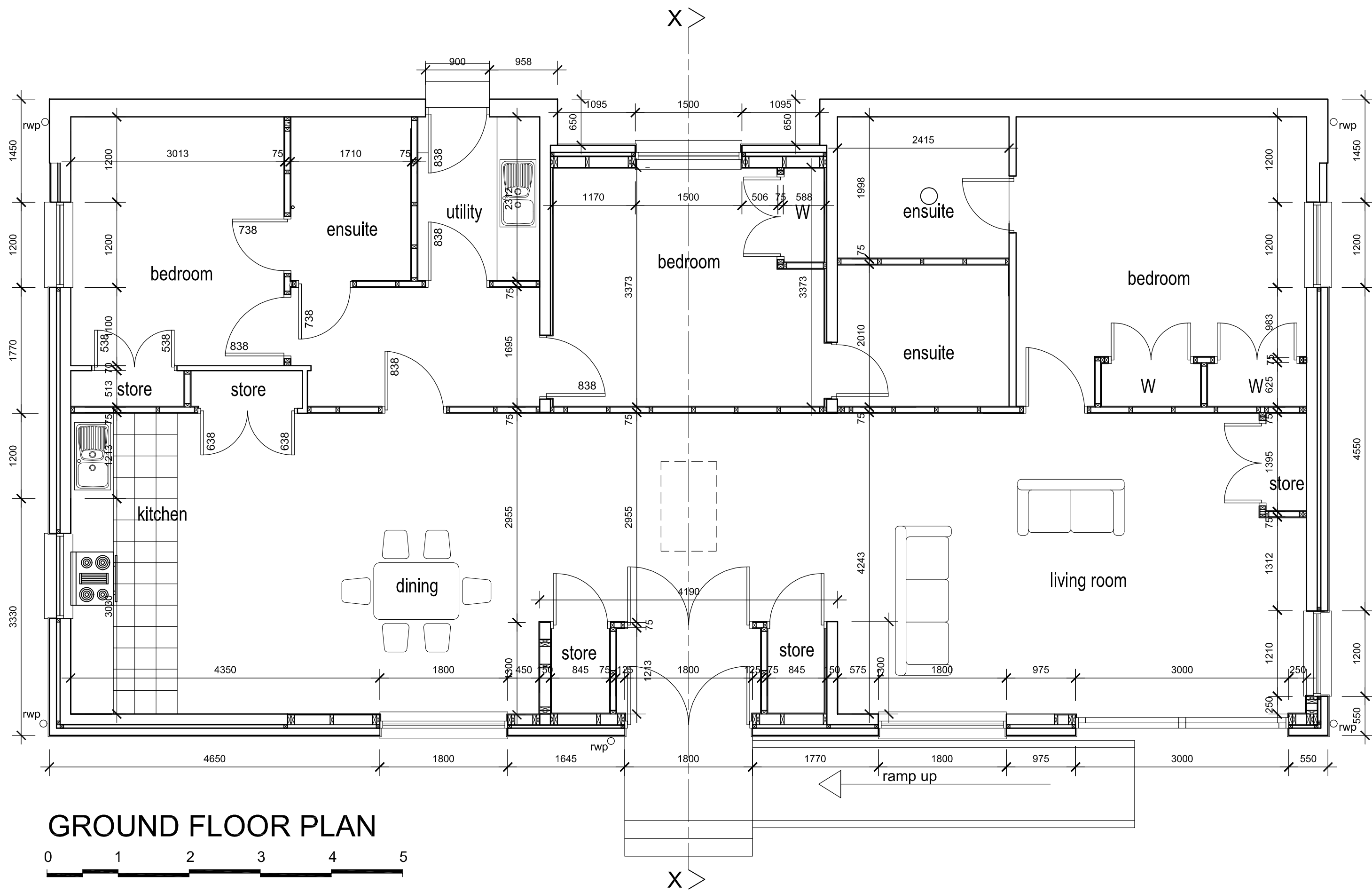
SOUTH EAST ELEVATION
0 1 2 3 4 5



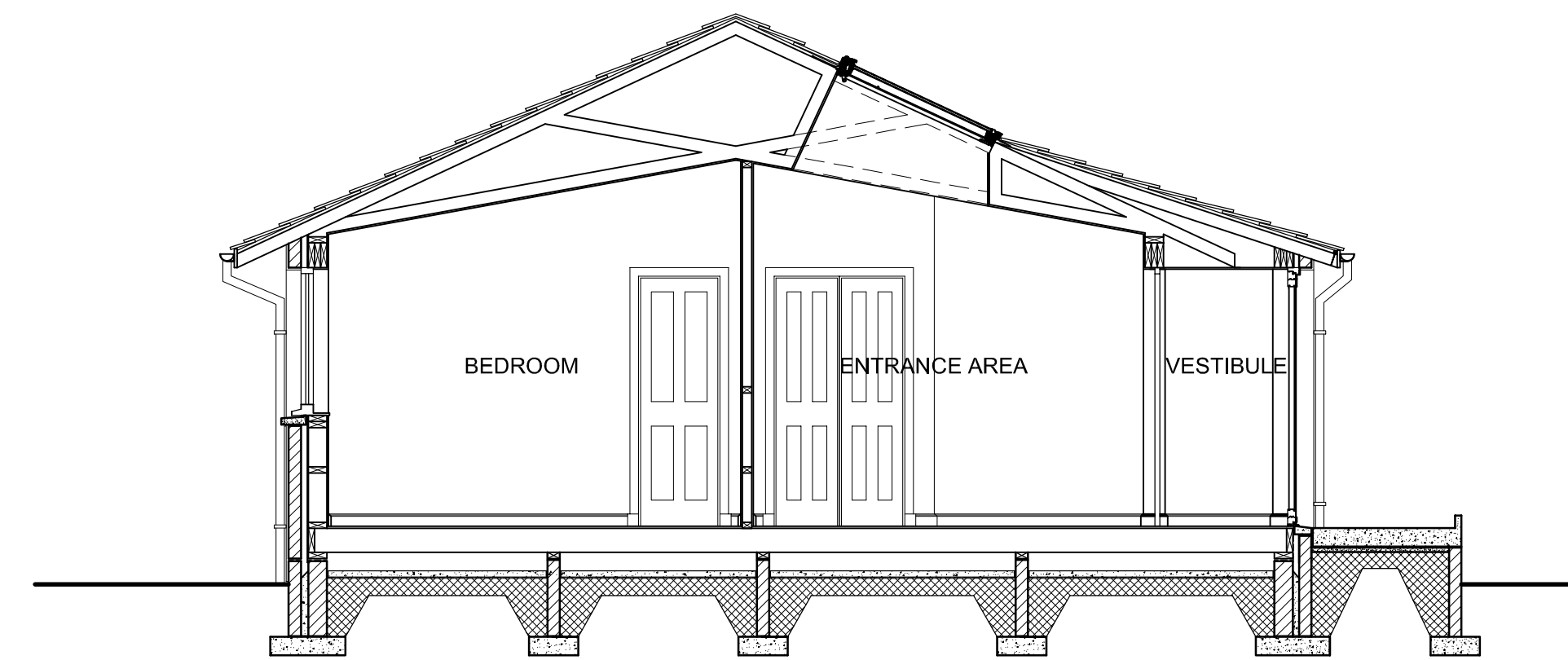
SOUTH WEST ELEVATION
0 1 2 3 4 5



NORTH WEST ELEVATION
0 1 2 3 4 5



GROUND FLOOR PLAN
0 1 2 3 4 5



CROSS SECTION X-X
0 1 2 3 4 5

Date	Revisions	Mark
Project PROPOSED CHANGE OF USE OF EXISTING HOLIDAY UNIT TO HOUSE LOCHYSIDE		
Client MR & MRS R THOMAS		
Drawing AS EXISTING PLANS, SECTION, ELEVATIONS		
Scale 1:50 @ A1	Date JAN 2019	
Drawn	Checked	
Dwg. No. AE001		