

Agenda Item	5.6
Report No	PLS-043-20

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 18 August 2020

Report Title: 20/01803/FUL: Mr Brian Rizza
High View, Lower Muckovie, Inshes, Inverness, IV2 5BB

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Retrospective application for the erection of garage and supportive gabion wall with associated works

Ward: Ward 19 – Inverness South

Development category: Local

Reason referred to Committee: Manager Discretion

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 This proposal is for planning permission, in retrospect, for a garage and gabion basket retaining wall that has been constructed adjacent to an existing detached house.
- 1.2 The site has been developed for a house and the necessary infrastructure is in place for appropriate access and drainage associated with the house.
- 1.3 Pre Application Consultation: none
- 1.4 Supporting Information: Report on mitigation measures to restore channel capacity; post wall construction; SER Certificate of Design; Structural Assessment
- 1.5 Variations: none

2. SITE DESCRIPTION

- 2.1 The site is bounded to the north west by the access to Lower Muckovie Farm and the B9177 to the west. The Scretan Burn is located immediately to the east of the boundary.

3. PLANNING HISTORY

- | | | | |
|-----|------------|--|-----------------------------|
| 3.1 | 31.10.2013 | Erection of house & associated works (13/02218/FUL) | Planning Permission Refused |
| 3.2 | 15.04.2014 | 13/04242/FUL - Erection of new house | Planning Permission Granted |
| 3.3 | 15.12.2014 | 14/03375/FUL - Erection of house and double garage | Planning Permission Granted |
| 3.4 | 08.03.2016 | 15/03857/FUL - Change of garage design (previous permission 14/03375/FUL) | Planning Permission Granted |
| 3.5 | 18.01.2018 | 17/05711/FUL - Extend garage | Planning Permission Granted |
| 3.6 | 21.06.2018 | 18/02157/FUL - Erection of garage (in retrospect) | Planning Permission Refused |
| 3.7 | 30.05.2019 | 19/00622/FUL - Erection of garage and gabion basket retaining wall (in retrospect) | Planning Permission Refused |

3.8	30.05.2019	18/00064/ENF - Enforcement notice to remove garage	Appealed
3.9	11.09.2019	ENA-270-2031 - Appeal against enforcement to remove garage	Planning Permission Refused

4. PUBLIC PARTICIPATION

4.1 Advertised: No

Representation deadline: 11.06.2020

Timeous representations: 2

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Planning history of the site and failure to comply with consistent direction from the Planning Authority;
- b) The height of the garage exceeds 4 metres;
- c) The gabion baskets were to be a temporary feature to protect the burn during construction of the garage according to the appeal statement so the gabion baskets are temporary and should be removed;
- d) Observed significant deterioration of the Scretan Burn's banks within the bounds of a neighbouring property as a direct result of these works;
- e) The proposal is not in accordance with policy 28 as per previous refusals;
- f) Drawing KEP-XX-XX-DR-A-5020-0002 does not appear to accurately represent the gabion wall as the bank of the Scretan Burn.

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 **Flood Risk Management Team:** Objection due to the encroachment into the 6 metre riparian buffer.

5.2 **SEPA:** No objection

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

64 - Flood Risk

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

No specific policies apply.

6.3 **Highland Council Supplementary Planning Policy Guidance**

Flood Risk & Drainage Impact Assessment (Jan 2013)

Housing in the Countryside and Siting and Design (Mar 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) siting and design
- c) flood risk
- d) any other material considerations.

Development plan/other planning policy

8.4 The proposed development lies outwith the settlement development area of Inverness but within, and to the eastern side of the curtilage of a recently constructed house. The original permission for this house included a garage but on another part of the site. The garage in this application is located on an area outwith the original site boundary utilising land built up from the edge of the west bank of the adjacent Scretan Burn, within a 6m riparian buffer strip that was protected as a condition of that permission.

8.5 Notwithstanding the retrospective nature of the development, were the proposal to demonstrate sensitive siting and high quality design, have no significant detrimental impact on individual and/or community residential amenity, the environment and/or natural resources, then it may accord with the Highland Wide Local Development Plan.

Siting and Design

- 8.6 The garage building is considered to be compatible with the house in terms of its design. It is located far enough from neighbouring properties that it will not impact on the amenity of occupants of these properties. Representations received in this regard refer to the height of the building exceeding 4 metres, but this height is only relevant in as much as buildings above this height require planning permission.
- 8.7 However, the garage location is on land that has been raised and 'built-up' from the west bank of the Scretan Burn to form a level platform. This has also extended the area of hardstanding to the rear of the house. The natural ground level has effectively been replaced and increased in height by around 3-4m, through the construction of a 2 metre high gabion basket wall on the bank. The Housing in the Countryside Siting and Design Supplementary Guidance associated with Development Plan policy 35 (Housing in the Countryside (Hinterland areas)) requires that engineered platforms should be avoided and buildings should be designed to fit into the landscape. While views towards and of the wall are limited, it is nonetheless not considered complementary to the natural character of the area, nor does it fit into the landscape.
- 8.8 The siting of the wall and infilling to raise the level of the rear garden of the house, and therefore the siting of the garage on it, is not considered to accord with Development Plan policy 28 (Sustainable Design) as it is inappropriate and insensitive to the local character and natural environment in which it is located.

Flood Risk

- 8.9 This site lies within the Pluvial Flood Medium Risk area and as such, under the Highland-wide Local Development Plan policy 64 (Flood Risk), any proposal for development must be supported by a Flood Risk Assessment to demonstrate that neither the proposed property nor any other property will be adversely affected by the development. The applicant has supplied a Channel Capacity Assessment with mitigation measures to address the changes in the Scretan Burn as a result of this development which gave sufficient information for SEPA to withdraw their objection.
- 8.10 The Council's Supplementary Guidance on Flood Risk and Drainage Impact notes that *"THC will seek a minimum buffer strip of 6 metres between the top of the bank of any body of water within an application site and any proposed new development. This strip should be kept free from any development, whether proposed as part of the application or in the future, in order to allow access to the watercourse for the purposes of watercourse assessment and maintenance, to aid water and ecological quality and to ensure bank stability"* and *"There should be no encroachment on this strip during any stage of the development e.g. no materials are to be stored within this strip that could reduce the storage capacity of the flood plain, no structures such as decking or bridges should be erected without prior consent from THC and ground levels should be maintained at predevelopment levels."*
- 8.11 This 6m buffer strip was clearly identified on the applicant's approved plans for the house. The garage has instead been built immediately adjacent to the burn on land reclaimed by installing a series of gabion baskets.

- 8.12 The Council's Flood Team was consulted on the application and has objected on the basis that the garage and gabion wall have been built within the 6 metre riparian buffer strip of the watercourse. The buffer strip is necessary in order to allow access to the watercourse for the purposes of assessment and maintenance, to aid water and ecological quality and to ensure bank stability. The guidance says that "*no structures should be erected without prior consent from THC and ground levels should be maintained at pre-development levels.*" In this case ground levels on one side of the bank have been significantly raised causing uncertain impacts on the opposite bank.

Other material considerations

- 8.13 There are no other material considerations.

Non-material considerations

- 8.14 There are no non-material planning considerations.

Matters to be secured by Section 75 Agreement

- 8.15 None

9. CONCLUSION

- 9.1 The garage and wall have been built within the riparian buffer strip of the Scretan Burn and as such the Council's Flood Team has objected as this impacts the ability to assess and maintain the burn, the quality of the water and ecology, and the stability of the banks of the burn, in particular the opposite (eastern/northern) bank.
- 9.2 The proposal has resulted in a platform that goes against the natural character and fall of the land and is therefore contrary to the policies of the Highland wide Local Development Plan.
- 9.3 It is important to note that should the Committee decide to grant this planning application, the mitigation measures to restore the channel capacity, set out in the EnviroCentre report dated June 2019, must be implemented as soon as possible.
- 9.4 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:

1. The proposal does not comply with Policy 64 (Flood Risk) of the Highland-wide Local Development Plan, and in particular to the associated requirements of the Council's Supplementary Guidance on Flood Risk and Drainage Impact, in that the garage has been built within the 6 metre riparian buffer strip of the Scretan Burn.
2. The proposal does not comply with Policy 28 of the Highland-wide Local Development Plan as neither the siting of the wall and infilling to raise the level of the rear garden of the house nor the siting of the garage on top of it is considered to be sensitive to the local character and natural environment in which it is located.

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.

Designation: Area Planning Manager – South

Author: Elaine Watt

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

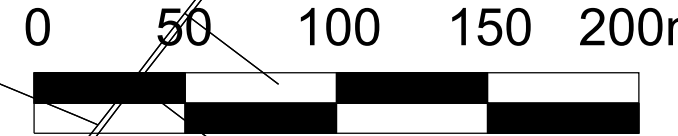
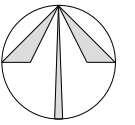
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Plan 2 - KEP-XX-XX-DR-A-5020-0002 REV 01 - Site Plan

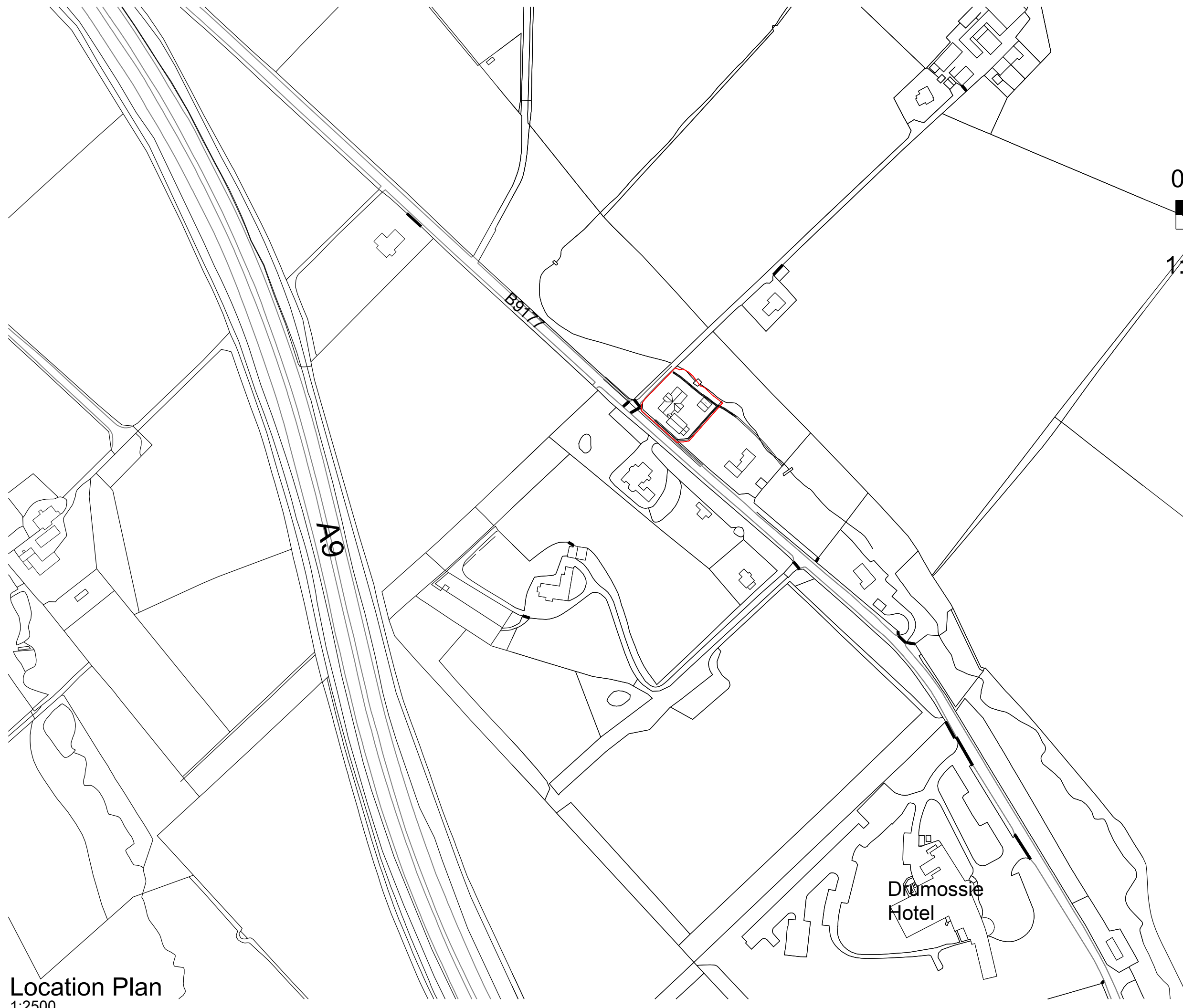
Plan 3 - KEP-XX-XX-DR-A-7030-0001 REV 00 - Elevations

Plan 4 - KEP-XX-XX-DR-A-7060-0001 REV 00 - Floor Plans

Plan 5 - KEP-XX-XX-DR-A-7080-0001 REV 00 - Cross Section



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Revision

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00 First issue.

Drawn : CC Chk'd : LA Date : 29.04.2020



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Client
Brian Rizza

Project
Highviews
Lower Muckovie

Drawing
Location Plan

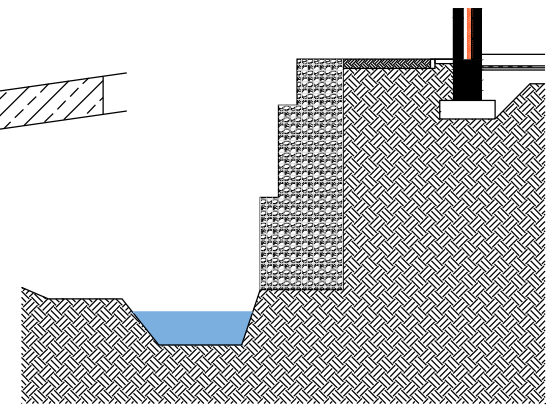
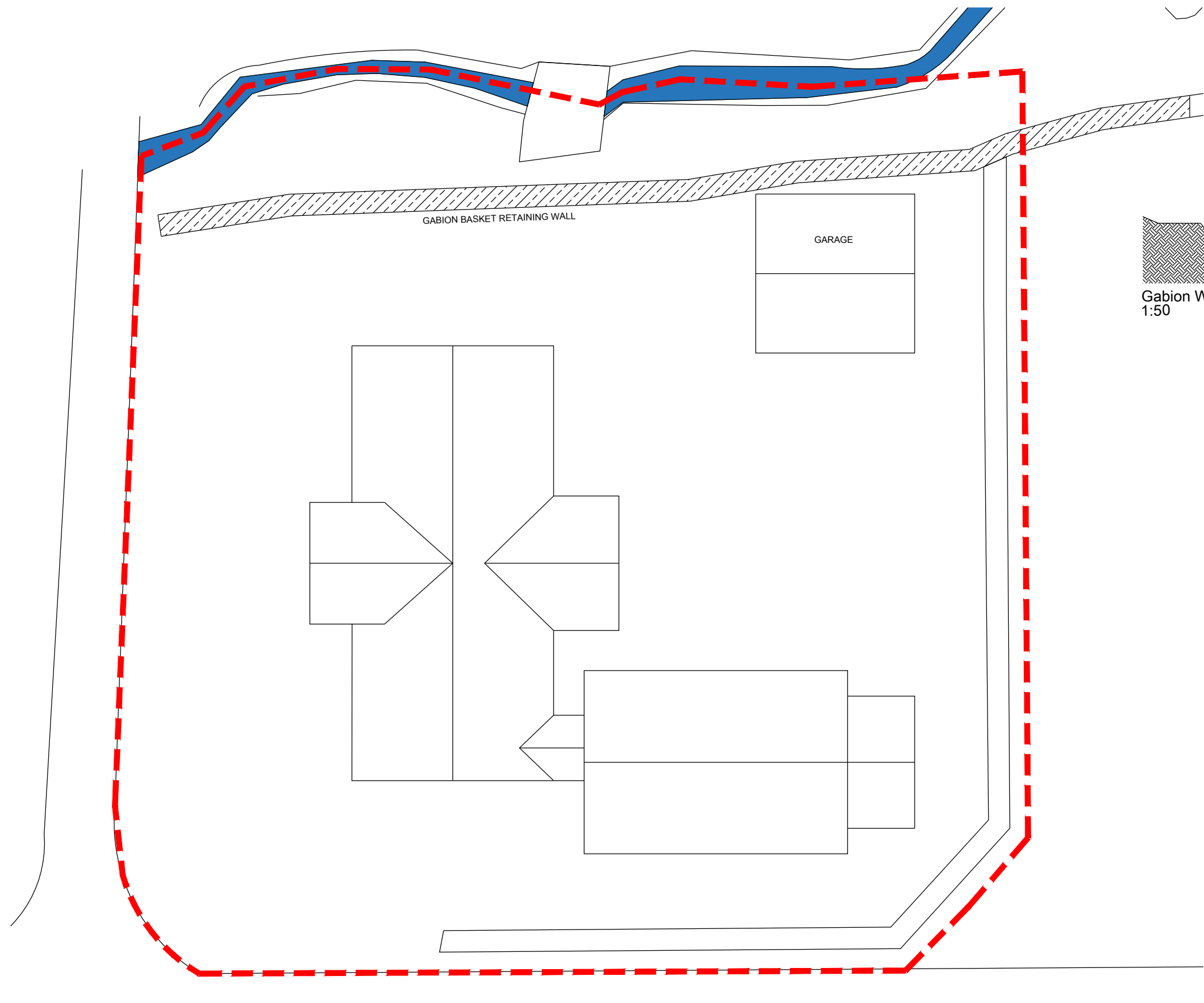
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P20-036

Drawing No. Rev.
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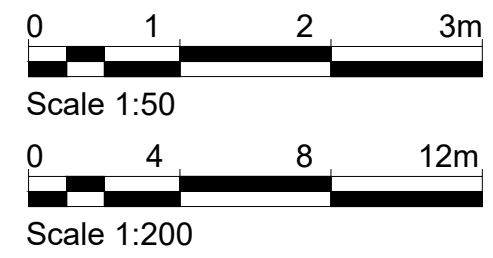
Location Plan
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Gabion Wall Cross Section
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Site Plan
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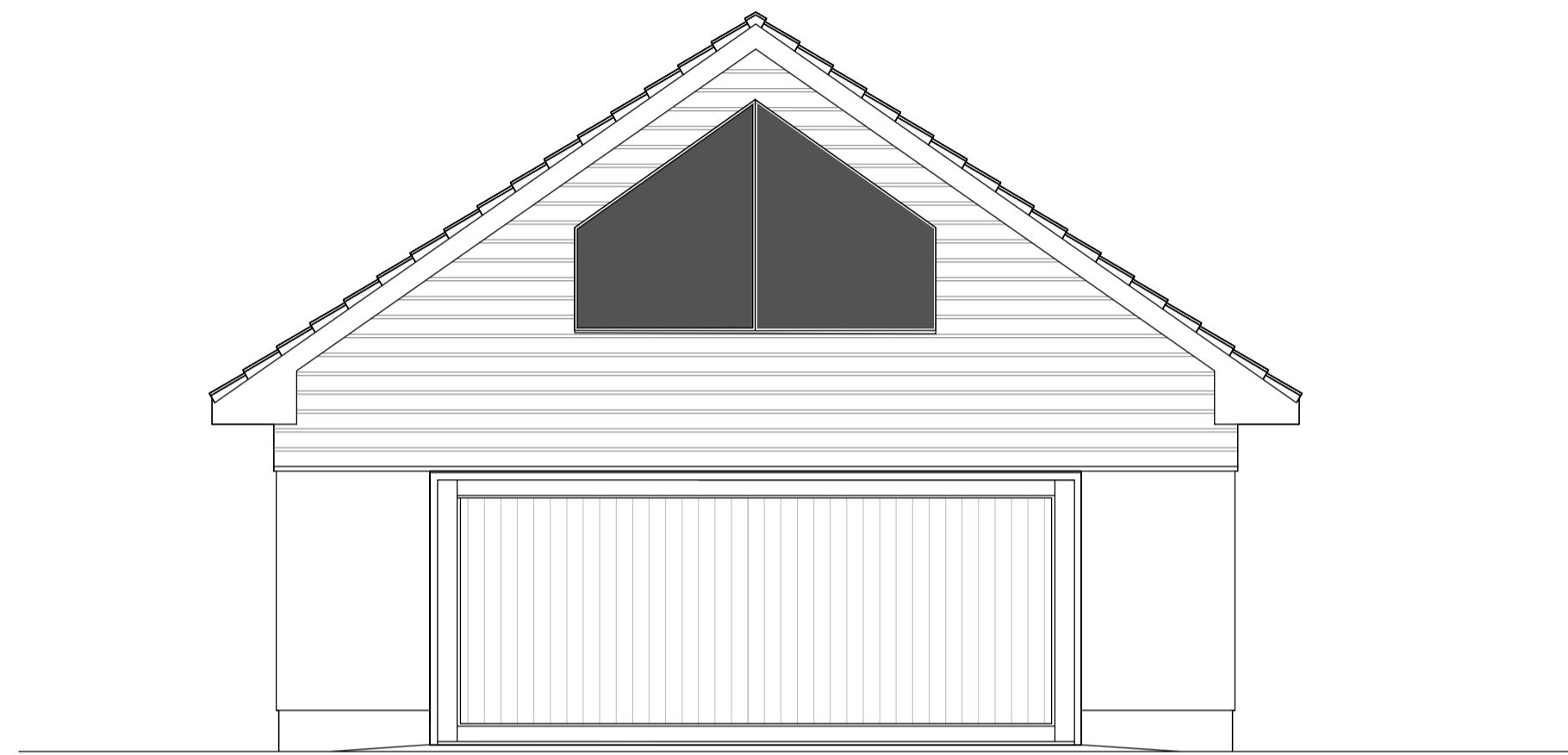
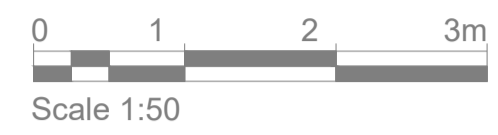
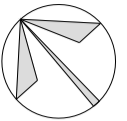
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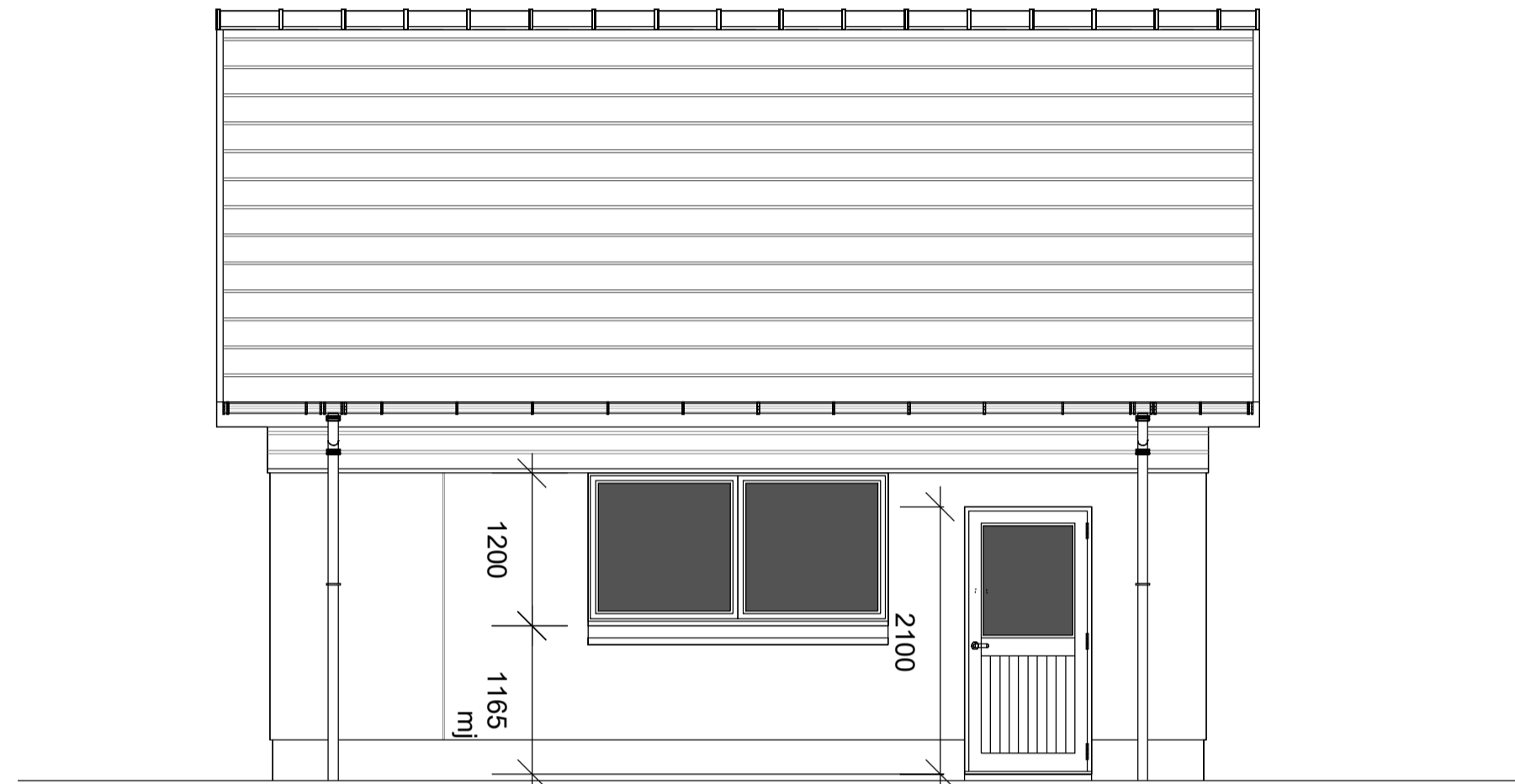
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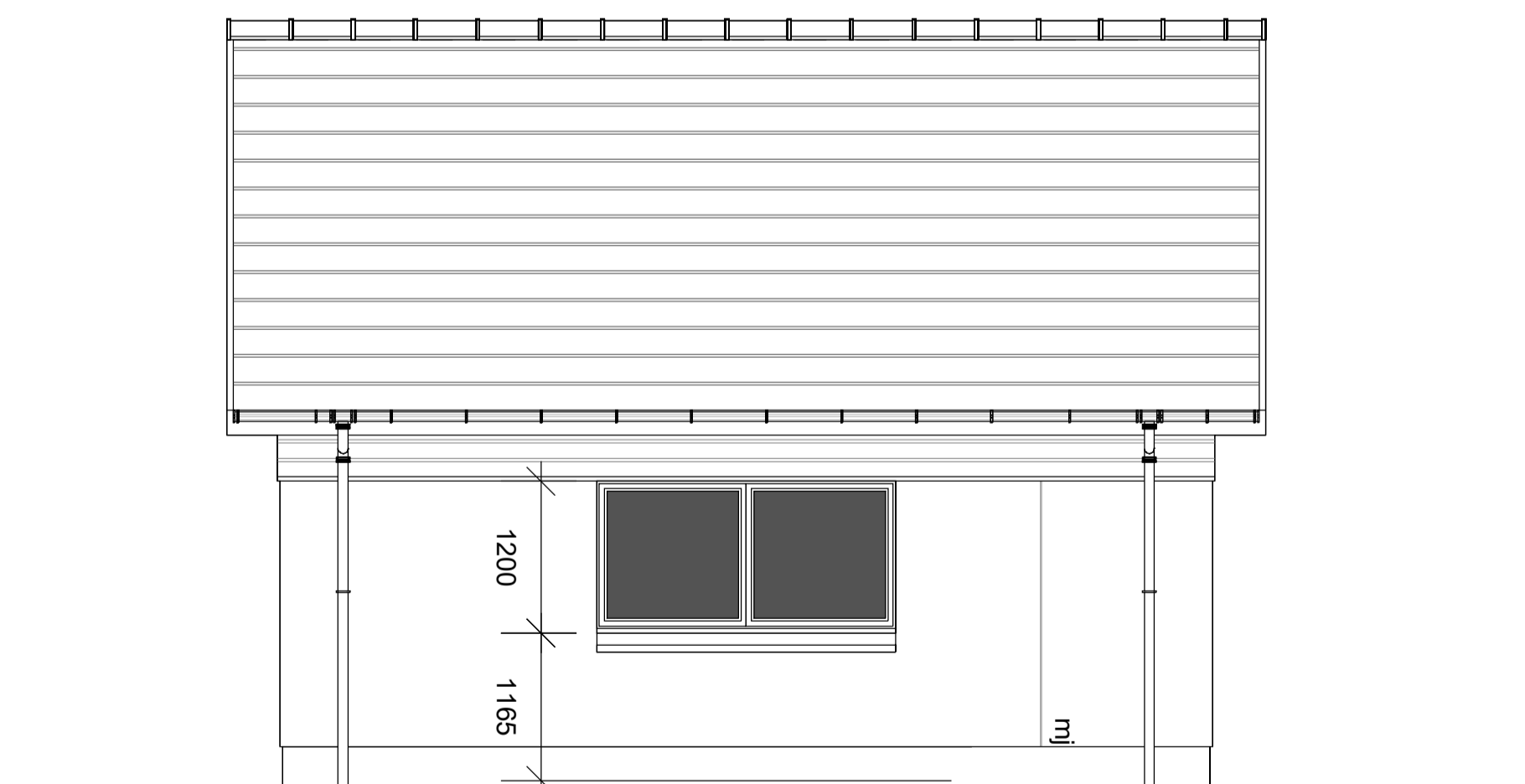
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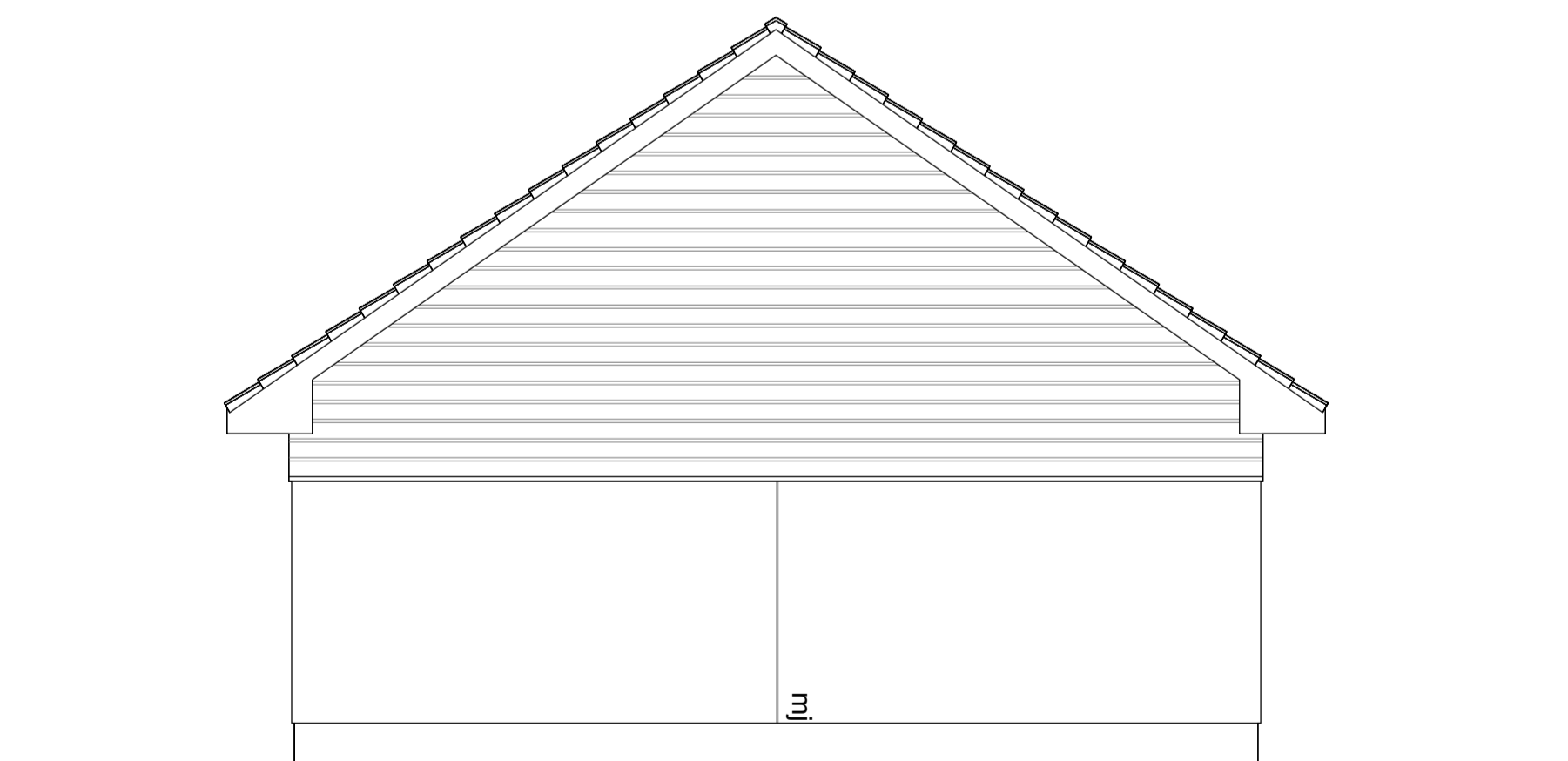
Front Elevation (North West)
 Scale 1:50



Side Elevation (South West)
 Scale 1:50



Side Elevation (North East)
 Scale 1:50



Rear Elevation (South East)
 Scale 1:50

Material Finishes:

Roofing - Natural Slate

Soffits/Facias - White uPVC

Lining Boards - Light Grey Horizontal boards

Render - White Smooth K-Rend

Basecourse - Smooth Light Grey Cement

Revision

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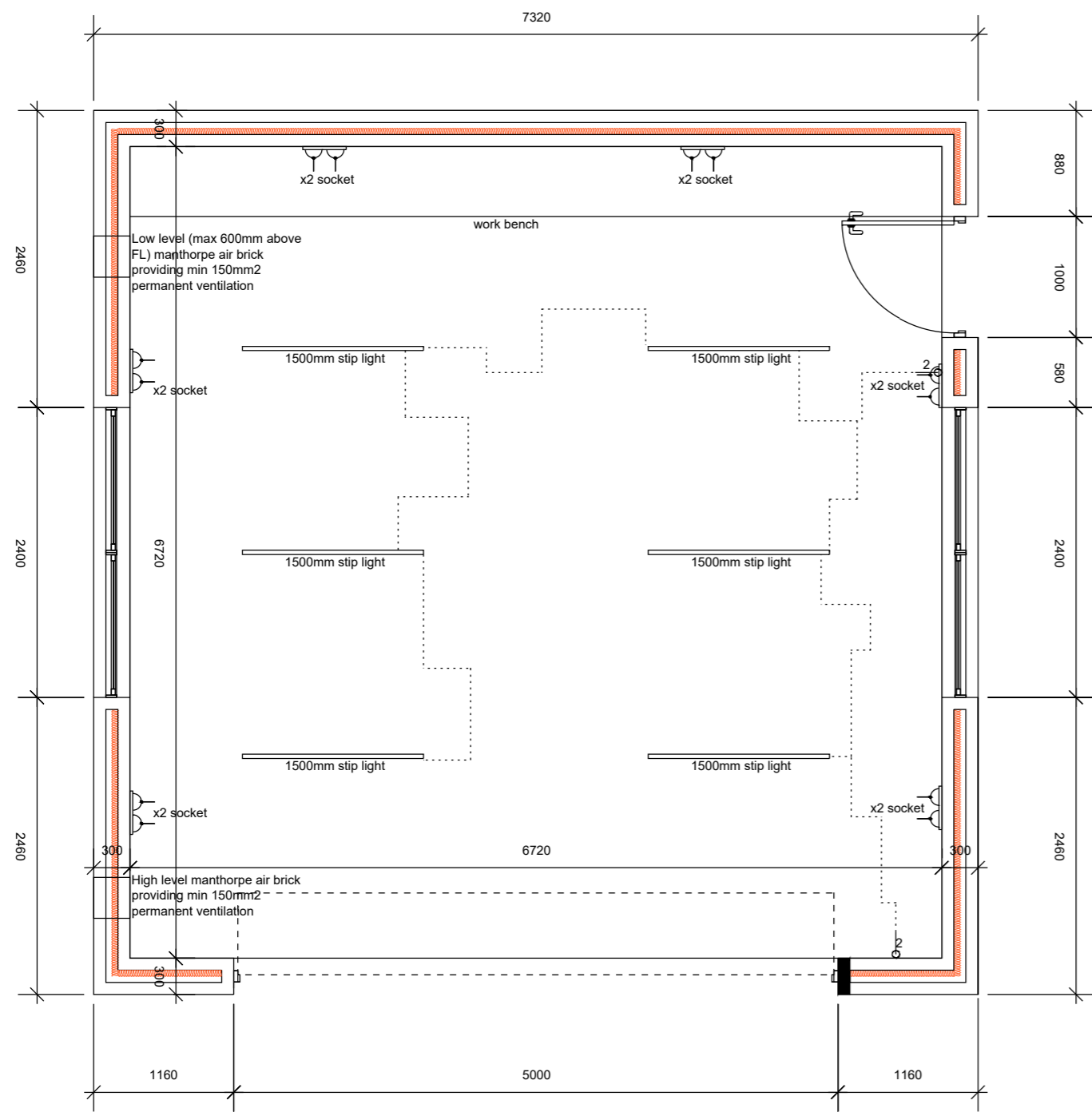
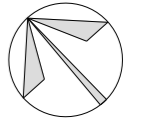
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P20-036

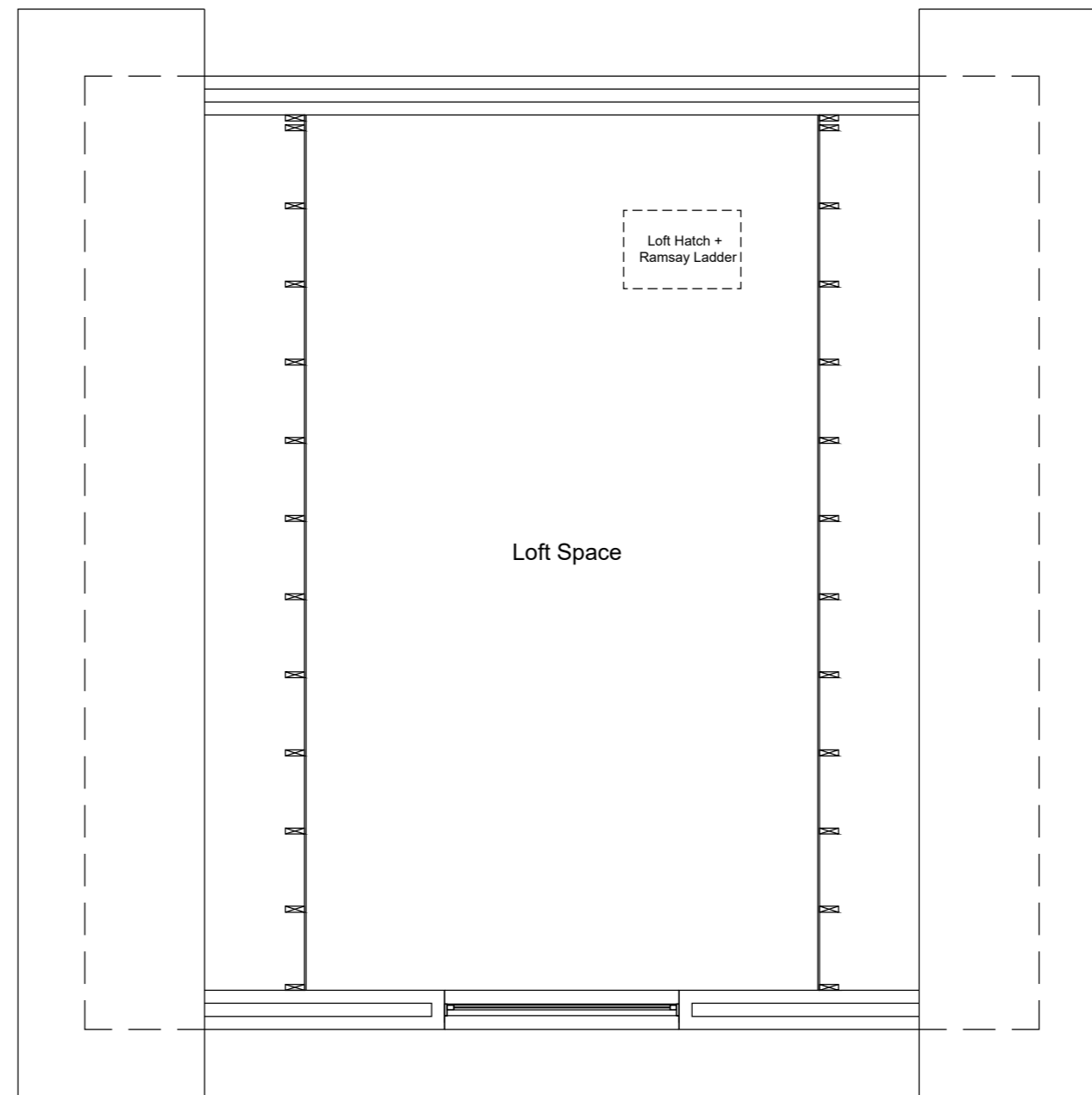
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Ground Floor Plan
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First Floor Plan
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Drawing
Floor Plans

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