

Agenda Item	6.14
Report No	PLS-73-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 18 August 2022

Report Title: 22/00164/FUL: Mr Simon Kennedy
Land 150M SW Of Loch Ness Cottage, Fort Augustus

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Siting of two pods

Ward: 12 – Aird and Loch Ness

Development category: Local

Reason referred to Committee: Referral by Members

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** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The application is for the siting of 2 holiday pods on land 150m southwest of Loch Ness Cottage approximately 1300m northeast of Fort Augustus. The pods measure 2.95m by 5.73m and are clad in Anthracite Grey Composite Cladding sitting on a timber deck orientated on a north-south axis with a view over Loch Ness. They are located within a band of established woodland situated between the banks of Loch Ness and the A82 and are set back 12.8m from the edge of the Trunk Road.
- 1.2 Vehicular access will be taken off the previously upgraded existing access to the A82. Four parking spaces will be located to the south of the entrance with a timber footbridge over the burn with pedestrian access to the pods. Bin provision will be located at the entrance.
- 1.3 Foul water drainage will be disposed of by discharge into an existing burn which is located to the east of the proposed holiday pods. This burn flows in a north to south direction and discharges into Loch Ness. A sewage treatment plant will provide the foul water with secondary treatment and prior to discharge into the burn.
- 1.4 Roof water run-off each pod will be collected and discharged into a stone filled filter trench, the outlet from which will connect into the downstream end of the foul drainage system, prior to discharge into the existing burn.
- 1.5 The proposed source of water is a borehole supply but there are no details as to its location.
- 1.6 Refuse and recycling waste will be collected at the entrance to the site off the A82.
- 1.7 Pre-Application Consultation: 21/00229/PREAPP - Siting of two holiday letting pods
- 1.8 Supporting Information:
 - Design and Access Statement
 - Drainage Impact Assessment
 - Tree Survey
- 1.5 Variations: 15.02.2022 - Revised Site Layout Plan, Elevations and Sections

2. SITE DESCRIPTION

- 2.1 The site is located to the southeast of the A82 and comprises a narrow strip of land with naturalised birch woodland which slopes down towards the Loch. Cross sections supplied by the agent give an impression of the significant gradient. The site is open to view from the A82 and has open views over the Loch. To the northeast are two recently constructed holiday cottages (16/00847/FUL).

3. PLANNING HISTORY

3.1	17.12.2015	15/03567/FUL	Erection of two holiday cottages	Planning Permission Refused
3.2	11.07.2016	16/00847/FUL	Erection of two holiday cottages	Planning Permission Granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 28.01.2022

Representation deadline: 11 February 2022

Timeous representations: 0

Late representations: 0

4.2 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 **Forestry Officer:** Objects. "The site is in woodland which sits on sloping ground between the A82 and Loch Ness. The trees are generally relatively young and there is a mixture of broadleaves and conifers. The woodland is listed in the Ancient Woodland Inventory as 'Other on the Roy Maps'. This is woodland which was in existence in in the 1750s when the Roy Maps were created; it was not woodland in the 1860s when the First Edition Ordnance Survey Maps were drawn but was recorded as woodland again in the Ordnance Survey maps in the 1980s.

The application includes a tree schedule and a Tree Constraints Plan, but no further arboricultural advice. The tree schedule identifies 17 individual trees, and these are shown on the Tree Constraints Plan which also identifies a significant area of "Mixed broadleaf woodland" around the individual trees. The woodland has not been recorded as a tree group in the schedule, as required by BS 5837:2012.

The revised Proposed Site Plan drawing (Rev B) shows the units placed between the root protection area (RPA) of the individually recorded trees, but there is no acknowledgement of the loss of woodland that would still be required for the units. There is also no Tree Protection Plan to demonstrate how trees to be retained on site would be safeguarded from construction.

The Drainage Layout Plan shows only the individual trees, and the drainage proposals are likely to have an adverse impact on the RPA of at least five of the individually surveyed trees. The drainage proposals would require a significant area of woodland to be cleared to accommodate installation.

It is proposed to plant an individual tree adjacent to each unit and a hedgerow is proposed between the site and the A82. However, this does not adequately compensate for the area of woodland that would need to be removed to accommodate the development proposals.

The proposals do not accord with policy 51 of the HwLDP as they do not promote significant protection to existing trees and woodlands on the site; and do not accord with policy 52 of the HwLDP as they do not demonstrate the need to develop a wooded site; they do not show that the site has capacity to accommodate the development; they do not offer clear and significant public benefit and they do not provide adequate compensatory planting.

The proposals do not accord with the Scottish Government's Control of Woodland Removal policy as they do not demonstrate what significant and clearly defined additional public benefits would be associated with the proposals; they do not confirm what area of tree cover would realistically need to be removed in order to accommodate all of the proposals and they do not confirm how the area of woodland proposed to be removed could be adequately compensated for with an area of equivalent size and quality of new woodland."

5.2 Environmental Health: Private Water Supplies - Development will use a private water supply. Insufficient information on the proposed water supply to determine whether wholesome water supply can be provided. Seek additional information in terms of a private water supply questionnaire; or suspensive condition relating to provision of private water supply.

5.3 Flood Risk Management Team: Object on grounds of flood risk.

i). SEPA's Flood Map indicates that the application site lies partially inside the predicted 1 in 200 year flood extents of Loch Ness; it is therefore potentially at medium to high risk of flooding from the Loch in severe weather events.

ii). Understand that the 1 in 200-year return period flood level for the Loch is 18.50mAOD and that increases in flow resulting from future climate change are not anticipated to impact greatly on water levels; new development should be located at or above 18.50mAOD, with a freeboard of 600mm above the finished ground level of the pods. Finished floor levels should be set no lower than 19.10mAOD

iii). Both pods will be located at a ground level of approx. 17.50mAOD and so will lie below their minimum required ground level of 18.50mAOD; therefore, object on grounds of flood risk from the Loch until it can be demonstrated that the pods can be located at or above 18.50mAOD and that safe access to/egress from the pods on ground at or above 18.50mAOD is achievable.

iv). A small watercourse/burn, which is too small to have been modelled for SEPA's Flood Map, is culverted under the A82 and runs through the site between the car parking/turning area and the pods; this burn appears to be small and the nearest is pod located some distance to the west. Need appropriate photos which demonstrate the size/type of the culvert, as well as the size/topography of the burn and its relationship to adjacent components of the site.

v). The burn will be crossed by means of a timber footbridge. In order to mitigate against flood risk to pod occupants using the bridge for emergency access/egress

purposes in severe weather, the bridge should be sized to accommodate the 1 in 200 year flows through the burn.

- 5.4 **SEPA:** Object, unless cabins are set on minimum ground levels of 18.5mAOD with the finished floor levels set to a minimum of 19.1 mAOD to provide 0.6m of freeboard.

Landraising could be considered acceptable in this instance. Cabins such as these are considered to be a Most Vulnerable land use. As the loch level is expected to remain relatively stable in the foreseeable future and as the cabins connect to higher ground with close proximity to the public road for access / egress, we are satisfied that assessment against the 200 year flood level is acceptable.

Regarding the small watercourse to the east of the pods, the topographic information provided on the Site Plan (Drg no. 0168-PL-001, January 2022) demonstrates that the channel has a relatively steep gradient which will limit the likelihood of significant out of bank flows and that cabins are well set back from the backs. Do not consider the cabins to be at risk of flooding from this source. The footbridge is proposed to cross the burn and recommend that this is sized to convey the 200 year flow.

- 5.5 **Transport Scotland:** No objections

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
- 31 - Developer Contributions
- 36 - Development in the Wider Countryside
- 43 - Tourism
- 44 - Tourist Accommodation
- 51 - Trees and Development
- 52 - Principle of Development in Woodland
- 57 - Natural, Built & Cultural Heritage
- 64 - Flood Risk
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

6.2 Inner Moray Firth Local Development Plan 2015

The site falls within the Loch Ness and Duntelchaig Special Landscape Area (SLA).

6.3 Highland Council Supplementary Planning Policy Guidance

- Developer Contributions (March 2018)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Rural Housing (December 2021)
- Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Inner Moray Firth Local Development Plan 2

Policy 1 – Low Carbon Development

Policy 2 – Nature Protection, Preservation and Enhancement

Policy 3 – Water and Waste Water Infrastructure Impacts

Policy 14 - Transport

7.2 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

Control of Woodland Removal Policy and Section 218 of Scottish Planning Policy (June 2014)

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) trees
- d) traffic
- e) flood risk
- f) drainage
- g) water supply
- h) any other material considerations.

Development plan/other planning policy

8.4 The site lies outwith the Settlement Development Area of Fort Augustus although just within the defined Hinterland Area. Highland wide Local Development Plan (HwLDP) Policy 43 (Tourism) supports proposals for tourist facilities provided

- the scale of the proposal is proportionate to its location
- the proposal will safeguard, promote responsible access, interpretation and

effective management or enhancement of natural, built and cultural heritage features.

- 8.5 In addition, outwith Settlement Development Areas, Policy 36 (Development in the Wider Countryside) identifies that development proposals will be assessed on the extent to which they are:
- acceptable in terms of siting and design;
 - are sympathetic to existing patterns of development in the area;
 - address drainage constraints and can otherwise be adequately serviced, particularly in terms of foul drainage, road access and water supply, without involving undue public expenditure or infrastructure that would be out of keeping with the rural character of the area.
- 8.6 In addition, the other policies contained within the HwLDP that must be given due consideration seek to ensure that new development is designed to make a positive contribution to the architectural and visual quality of the place in which it is located, be accessible and have no significant detrimental impact upon protected species and/or habitats or individual and community residential amenity. As the development is located within the Loch Ness and Duntelchaig Special Landscape Area (SLA) it is a requirement that any development will not have an unacceptable impact on the natural environment, amenity and heritage resource. Providing that the proposal can demonstrate this to be the case then it would comply with the Development Plan.
- 8.7 HwLDP Policy 51 (Trees and Development) and Policy 52 (Principle of Development in Woodland) support development which promotes protection to existing hedges, trees and woodlands on and around development sites with a presumption in favour of protecting woodland resources. Development proposals will only be supported where they offer clear and significant public benefit. This is reflected in the Scottish Government's Control of Woodland Removal and Section 218 of Scottish Planning Policy (June 2014).

Siting and Design (taking into account the SLA)

- 8.8 The site is characterised by its constrained nature between the A82 and the Loch, with a maximum variable depth between around 28m and 42m. It is open with important views across the Loch. The constraints of topography, vegetation, trees and road severely restricts any realistic potential development of the site within a relatively narrow area of land. This results in any building being close to the road and on the loch side raised. This topography means that the proposed pods would be visually prominent within the landscape. As a result, the location is not viewed as appropriate for such a development. The site would therefore be contrary to HwLDP Policy 28 due its impact on the landscape; and as it does not demonstrate sensitive siting and high-quality design, which is in keeping with the local character and would have an impact on the Special Landscape Area.

Trees

- 8.9 The siting of pods and the installation of drainage infrastructure has resulted in an objection from the Forestry Officer. The proposed replacement tree planting does

not compensate for the woodland lost by the development. It is therefore considered that the development would be contrary to HwLDP Policy 51 and 52 and the Scottish Government's Control of Woodland Removal policy.

Traffic

- 8.10 Transport Scotland has confirmed that it is satisfied with the existing access and parking provision.

Flood Risk

- 8.11 SEPA and the Flood Risk Management Team have assessed the proposal in terms of the potential for flood risk and have no objection provided the pods are set on minimum ground levels of 18.5mAOD with the finished floor levels set to a minimum of 19.1 mAOD to provide 0.6m of freeboard. Given that the flood risk is from a loch, landraising could be considered acceptable in this instance by SEPA. The agent has submitted revised sections to address this issue.

Drainage

- 8.12 A Drainage Statement has been submitted for the disposal of foul water and surface water. The ground is unsuitable for the disposal of foul and surface water run-off by infiltration and the use of traditional soakaways. As a result, discharge to the watercourse is necessary. Foul water will be treated by a wastewater treatment plant before discharge of the outflow to the Allt na h-Eireige. Roof water run-off will be collected, and the flow will then discharge into a stone filled filter trench and then into the same watercourse. This arrangement requires authorisation from SEPA.

Water Supply

- 8.13 No Hydrological Assessment has been submitted as to the source and capacity of the private water supply. Environmental Health will need to review the Hydrological Assessment and would seek a condition relating to water quality. Matters relating to water quality are controlled by Environmental Health.

Other material considerations

- 8.14 There are no other material considerations.

Non-material considerations

- 8.15 None

Developer Contributions

- 8.16 Policy 31 requires all developments to make fair and reasonable contributions towards improved public services as required. No developer contributions are required.

9. CONCLUSION

- 9.1 The proposal is for the siting of 2 pods to the southwest of recently constructed tourist accommodation. It is located to the north of Fort Augustus and is within a relatively constrained site between the A82(T) and the Loch.
- 9.2 The siting of the pods can be technically achieved in relation to access and parking requirements, with the existing access point to the A82(T) being able to handle the additional traffic volumes. Access is onto a relatively straight section of road with good visibility splays. The site can be adequately serviced, with surface and foul water drainage designed for the site. However, the adequacy of the private water supply has not at this stage been demonstrated.
- 9.3 The scale of this 2 pod development is considered to be proportionate to the location, and could complement the existing adjacent tourism accommodation to the north. Accordingly, the development would accord in principle with this aspect of HwLDP Policy 43 (Tourism).
- 9.4 However, where development is located outwith a settlement, it has to be acceptable in terms of its siting. Due to the siting of the proposal within an area of mixed broadleaves and conifers, listed in the Ancient Woodland Inventory, the development of the site would result in the units being placed between the root protection areas of individually recorded trees, and would result in a loss of woodland. Furthermore, the developer has not provided a Tree Protection Plan to demonstrate how trees to be retained on site would be safeguarded from construction works. The loss of trees from the site cannot be mitigated by replacement planting so there is a significant impact on amenity. Accordingly, the proposal is not considered to demonstrate sensitive siting in keeping with local character as required by policy 29, or safeguard the integrity of existing trees as required by policies 51 and 52.
- 9.5 As a result of the siting of the proposal within wider lochside tree cover within an area of wider countryside, it is not considered to accord with the siting requirements of HwLDP Policy 36.
- 9.6 Additionally, the development would intrude on the established short and distance views and outlook from the A82 over the loch, which provides the public character of this immediate area. Such development would have a detrimental impact on the Loch Ness and Duntelchaig Special Landscape Area and therefore not accord with HwLDP Policy 57.
- 9.7 The proposal is therefore not considered to be acceptable in terms of siting and design and is not sympathetic to the existing pattern of development in the area and accordingly, does not demonstrate compatibility with HwLDP Policies 29, 36, 43, 51, 52 and 57.
- 9.8 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

- Notification to Scottish Ministers N
- Conclusion of Section 75 N
Obligation
- Revocation of previous permission N

Subject to the above actions, it is recommended to **REFUSE** the application for the following reasons

1. The proposal does not demonstrate sensitive siting in keeping with the local character and therefore does not accord with the Highland Wide Local Development Plan Policies 28 (Sustainable Design), 29 (Design Quality & Place Making), 36 (Wider Countryside), 57 (Natural, Built & Cultural Heritage) and 61 (Landscape).
2. The proposal does not demonstrate the suitability of the private water supply in terms of capacity and therefore does not accord with the Highland Wide Local Development Plan Policy 28 (Sustainable Design).
3. The proposal does not accord with the Highland Wide Local Development Plan Policies 51 and 52, the Supplementary Planning Guidance (Trees, Woodlands and Development), and Scottish Government Policy due to the significant impact on existing trees and woodlands on the site. The applicant has not demonstrated the need and public benefit in development of a wooded site and has not shown that the site has capacity to accommodate the development.

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

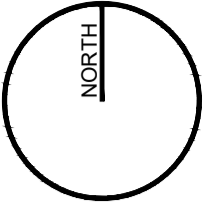
Author: Keith Gibson

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

Relevant Plans: Plan 1 - 0168-EX-000 REV A Location Plan

Plan 2 - 0168-PL-001 REV B Proposed Site Layout Plan

Plan 3 - 0168-PL-002 REV A Proposed Elevations and Sections



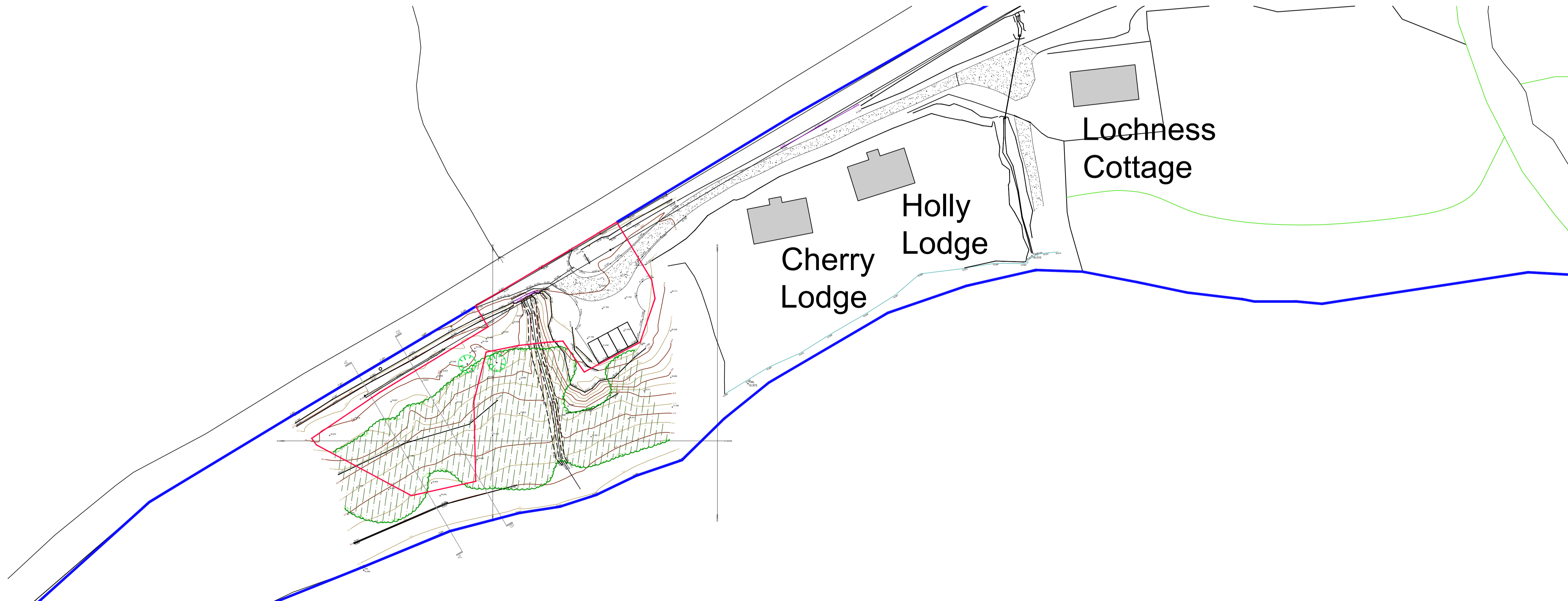
Blue Line Denotes Land in Ownership of Applicant

Red Line Denotes Application Boundary

Application Site Area = 0.1 hectares



Location Plan Scale 1:5000 on A1



Location Plan Scale 1:500 on A1

A Rev application boundary 19.01.22

Rev	Description	Date
-----	-------------	------

etch

App: Shoreland Holiday Pods

Project: Land 150m SW of Loch Ness Cottage

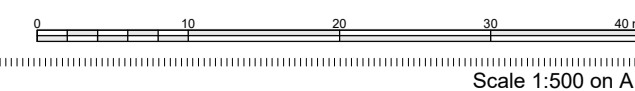
Title: LOCATION PLANS

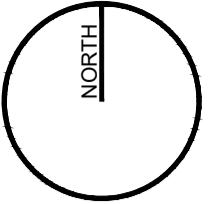
DWG no: 0168-EX-000 Rev: A

Scale: Varies @ A1 Date: 14.01.22

16 Kirk Crescent South, Aberdeen, AB15 9RR
Tel: 07709 289 703 Web: www.etcharchitects.co.uk

COPYRIGHT of etch architects. This drawing must not be scaled and any discrepancies should be brought to the attention of the architect immediately.





C	Rev boundary line as per request	15.06.22
B	Rev Pod Floor Levels and Drainage	15.02.22
C	Rev application boundary	19.01.22

Rev	Description	Date
-----	-------------	------

etch

App: Shoreland Holiday Pods

Project: Land 150m SW of Loch Ness Cottage

Title: PROPOSED SITE PLAN

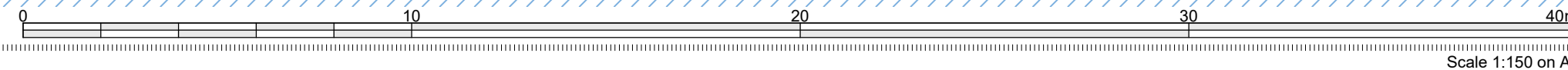
DWG no: 0168-PL-001 Rev: C

Scale: 1:150 @ A1 Date: 14.01.22

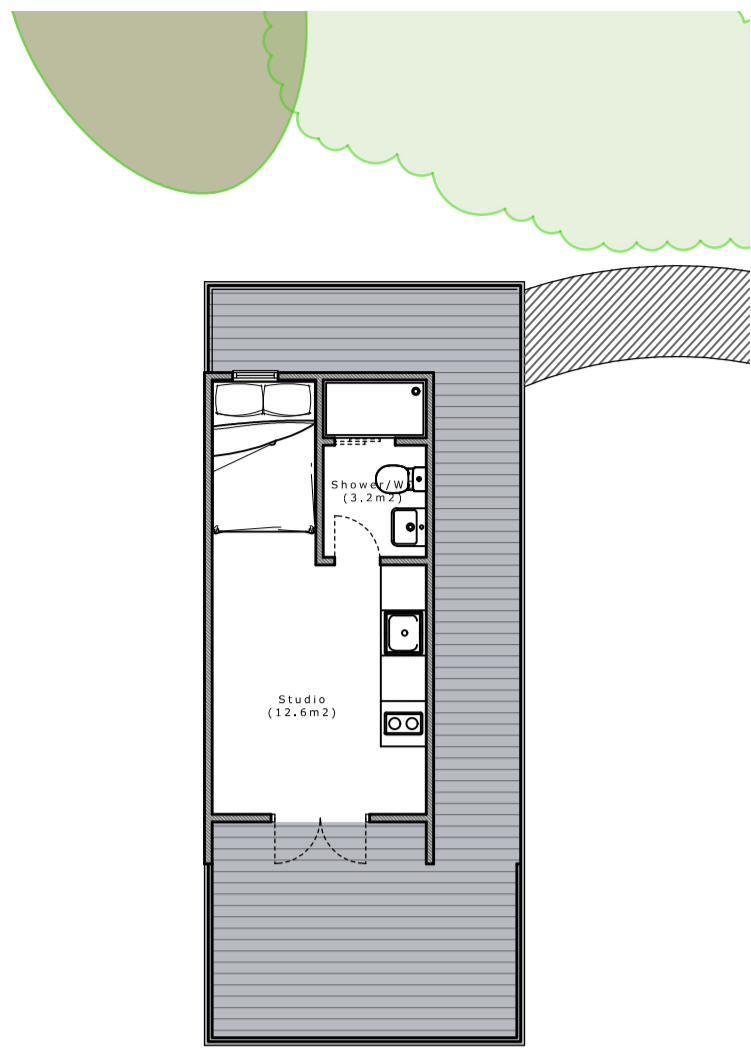
16 Kirk Crescent South, Aberdeen, AB15 9RR
Tel: 07709 289 703 Web: www.etcharchitects.co.uk

COPYRIGHT of etch architects. This drawing must not be scaled and any discrepancies should be brought to the attention of the architect immediately.

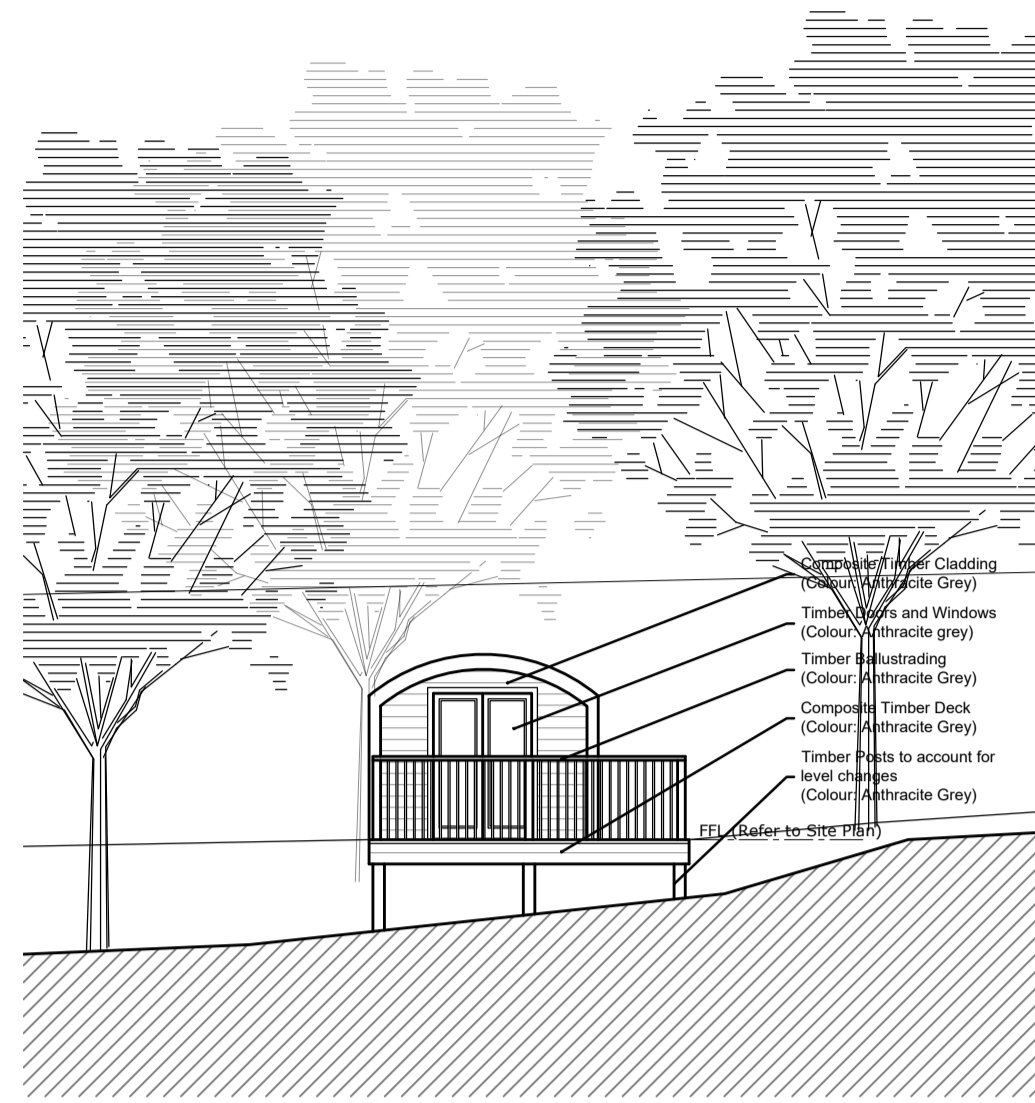
Proposed Site Plan



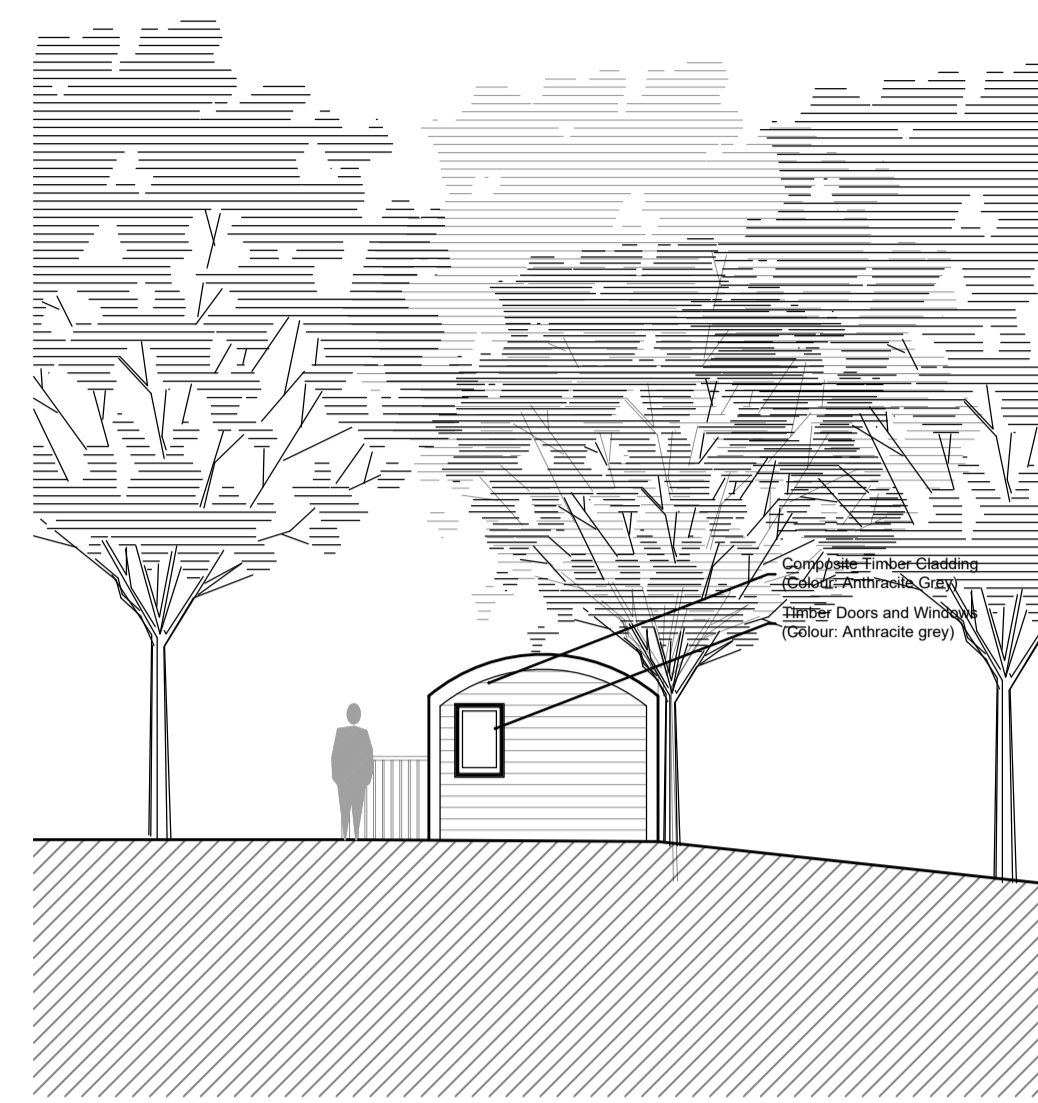
Scale 1:150 on A1



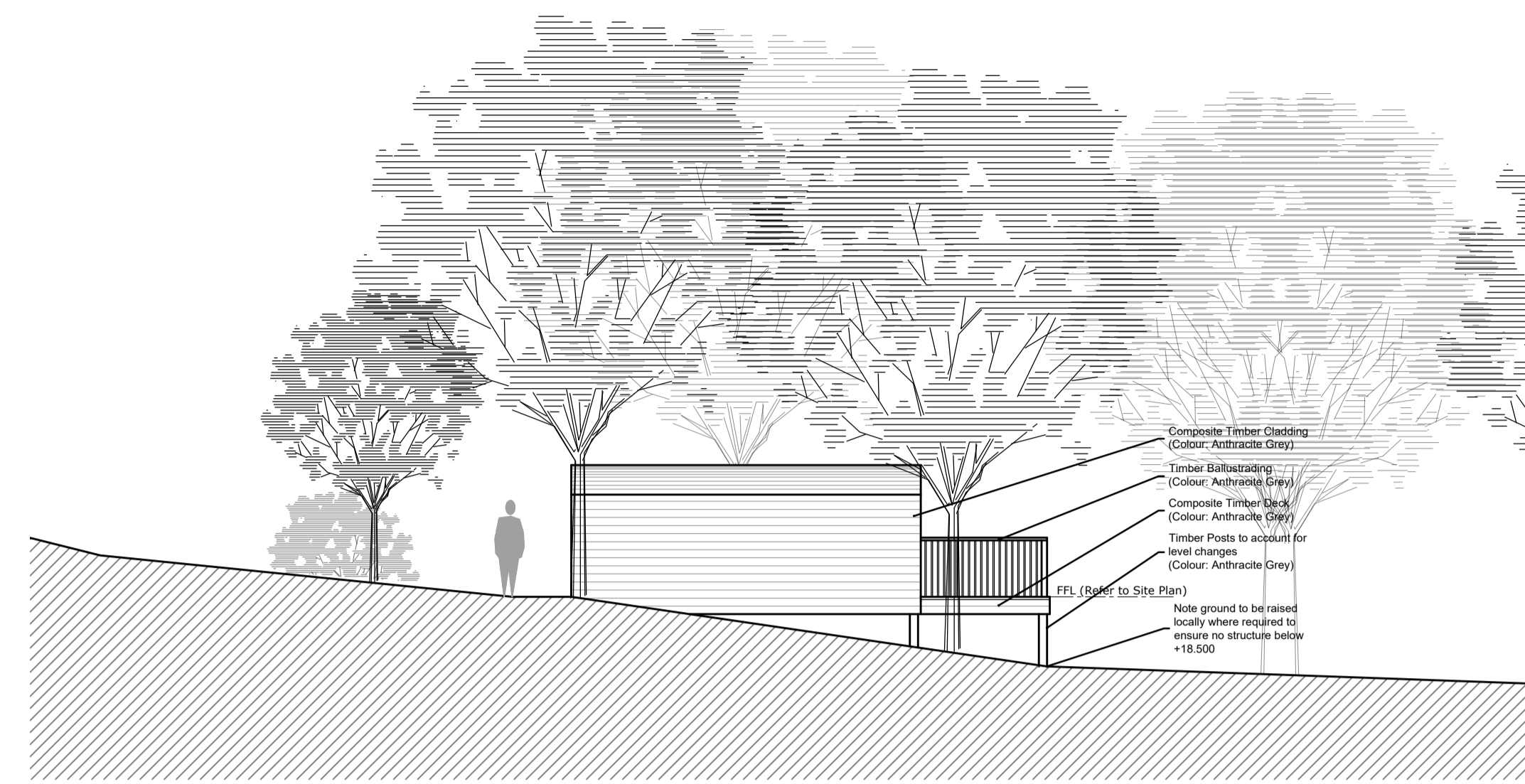
Pod Floor Plan
Scale 1:100 on A1



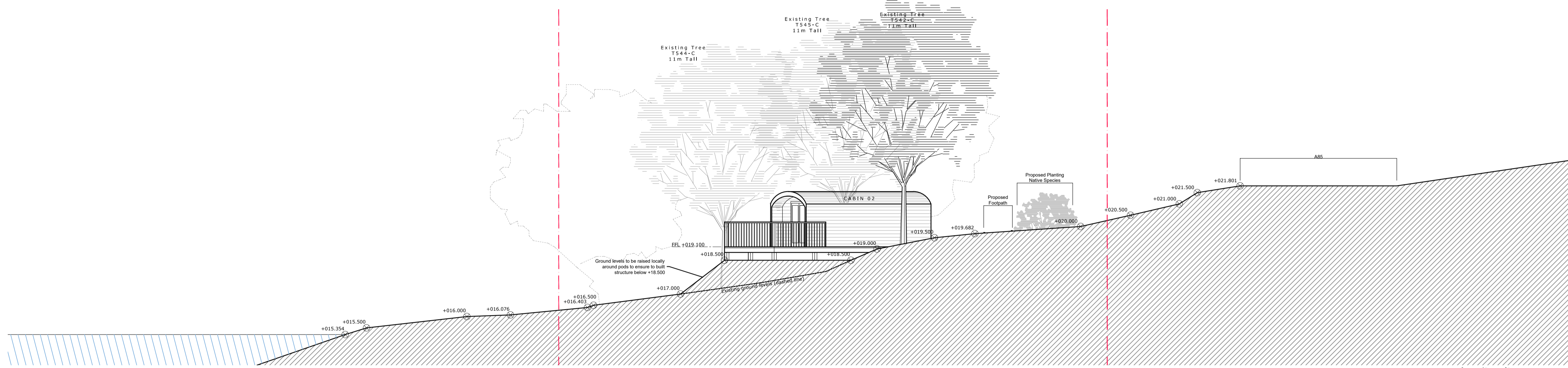
Pod Principal Elevation
Scale 1:100 on A1



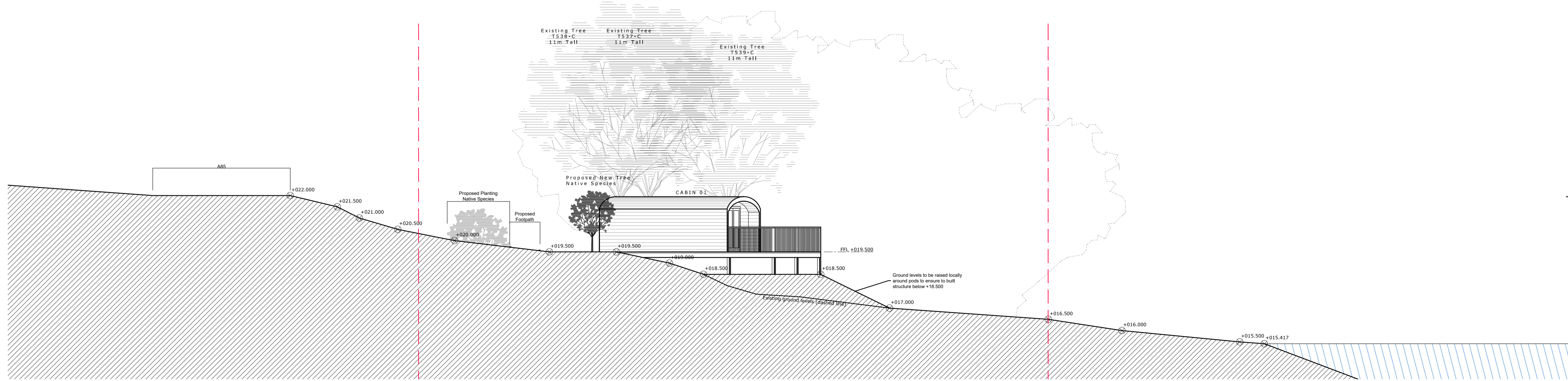
Pod Rear Elevation
Scale 1:100 on A1



Pod Side Elevations
Scale 1:100 on A1



Proposed Site Section AA - Showing Pod 02 in Context
Scale 1:100 on A1



Proposed Site Section BB - Showing Pod 01 in Context
Scale 1:100 on A1

A Rev Levels as per SEPA comment 15.02.22

Rev	Description	Date
-----	-------------	------

etch

App: Shoreland Holiday Pods
Project: Land 150m SW of Loch Ness Cottage

Title: PROPOSED ELEVATIONS AND SECTIONS

DWG no: 0168-PL-002 Rev: A

Scale: 1:100 @ A1 Date: 14.01.22

16 Kirk Crescent South, Aberdeen, AB15 9RR
Tel: 07709 289 703 Web: www.etcharchitects.co.uk

COPYRIGHT of etch architects. This drawing must not be scaled and any discrepancies should be brought to the attention of the architect immediately.