

**THE HIGHLAND COUNCIL**

**NORTH AREA PLANNING APPLICATIONS COMMITTEE  
– 5 August 2014**

Agenda Item	6.4
Report No	PLN/052/14

**14/01423/PIP : Mrs Rena Mackinnon  
Land 25M NE Of Parkside, Dunhallin, Waternish**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Erection of house, formation of access & installation of treatment tank

**Recommendation - GRANT**

**Ward :** 11 - Eilean A' Cheò

**Development category :** Local Development

**Pre-determination hearing :** n/a

**Reason referred to Committee :** Number of objections.

**1. PROPOSED DEVELOPMENT**

- 1.1 This application seeks planning permission in principle for a single dwelling on croftland on the seaward side of the B.886 Stein-Trumpan road and within the settlement development area of Hallin/Halistra.
- 1.2 Informal pre-application advice has been sought for the proposal and a generally positive response provided.
- 1.3 Site access is indicated as being from the single track road which runs up from B.886 along the northern and eastern sides of the site and on up to the upper line of development of this part of the settlement.
- 1.4 **Variations:** None

**2. SITE DESCRIPTION**

- 2.1 The entire landform in which the croft is situated slopes downwards from north-east to south-west and the site itself also has a significant rise in levels between its B.886 road frontage and the small road running across its rear.
- 2.2 There is a small stone ruin in the northern corner of the site close to where the access is indicated.

- 2.3 The site has a dwelling either side of it;
- 3 Dunhallin (Parkside) is a traditional one and a half storey dwelling set back some 25m from the road frontage and a similar distance to the south-east of the proposed house site.
  - 4a Dunhallin is a large modern bungalow built in the last few years and is also positioned some 25m back from the road with a separation from the site of about 30m.
- 2.4 The distance between these two properties is about 60m
- 2.5 These properties conform to the wider settlement pattern which is linear and consists of a line of houses predominantly on the seaward side of the road.

### **3. PLANNING HISTORY**

- 3.1 14/01511/PIP - Erection of house, formation of access & installation of treatment tank – Pending (application on the same croft at the 'upper' road level)

### **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown neighbour – expiry date 9 May 2014  
Representation deadline : 27 June 2014 (extended to allow Crofting Commission consultation response)  
Timeous representations : 14 from 12 households  
Late representations : none
- 4.2 Material considerations raised are summarised as follows:
- Proposed house could disrupt private water supply to neighbouring property to the south-east "Parkside"
  - Rural locality already over-developed
  - This is good agricultural land and should not be developed for housing
  - The addition of this house to the two already on the croft and a fourth also in the planning system (14/01511/PIP) would render the croft useless
  - The proposal will cause a loss of privacy due to overlooking for the occupants of 4A Dunhallin – the neighbouring property to the north-west
  - Access should be directly from the B886 as the small access road cannot cope with any further traffic usage
  - Drainage will have to be considered carefully for any house development to avoid localised flooding – particularly of the road
  - Plot is narrow and any house will appear squeezed in with a poor visual impact
  - Further development will damage the attractiveness of the area for tourists

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](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

5.1 **Building Standards** : Verbal confirmation that drainage system was likely to meet Building Warrant requirements

5.2 **Waternish Community Council** : registered an interest in the application but the CC was dissolved due to resignations before a formal response could be made. A letter from 'the community' was subsequently received.

5.3 **Crofting Commission** : General Policy Response provided

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 29	Design Quality and Place-Making
Policy 34	Settlement Development Areas
Policy 47	Safeguarding Inbye/Appportioned Croftland
Policy 57	Natural, Built and Cultural Heritage
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

### 6.2 West Highland and Islands Local Plan 2010

Policies 1 & 2 In terms of boundary definition of settlement development areas and other land allocations

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

n/a

### 7.2 Highland Council Supplementary Planning Policy Guidance

Housing in the Countryside and Siting and Design

### 7.3 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy 2014

### 7.4 **Other**

Special landscape Areas Citations

## 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.

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.

### 8.3 **Development Plan Policy Assessment**

The property falls within the Settlement Development Area for Hallin/Halistra and so Policy 34 of the Highland-wide Local Development Plan applies. Policy 34 supports development proposals within Settlement Development Areas if they meet the Design for Sustainability requirements of Policy 28. There is also a requirement to judge proposals in terms of how compatible they are with the existing pattern of development and landscape character and how they conform with existing and approved adjacent land uses. Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern. Policy 61 further emphasises the need for development to respect the landscape character of their surroundings.

There is also a requirement to judge proposals in terms of their impact upon the natural, built and cultural heritage features identified by Policy 57. The site falls within the North-West Skye Special Landscape Area in respect of which Policy 57.1 states that developments will be supported where they can be shown not to have an unacceptable impact upon the identified protected amenity and heritage resource.

Policy 47 requires developments to, where possible, avoid siting on croft land of higher agricultural value and/or impeding access to the remaining croft land.

Policies 65 and 66 require foul and surface water drainage to meet standards that minimise the risk of pollution and flooding.

### 8.4 **Material Considerations**

Design, Appearance and Landscape Impact – a number of third party objections have suggested that this site is too small and narrow to comfortably accommodate a dwelling and still conform to the prevailing settlement pattern.

The submitted indicative site layout plan shows a small single storey dwelling positioned within the site and set a little way back from the line of the two neighbouring properties.

In terms of settlement pattern, although the proposal would place three dwellings in close proximity to each other, this is not considered to be significantly detrimental in terms of landscape impact and other examples of similarly spaced buildings can be seen within the wider settlement.

However, it is considered that the site only has the capacity to accommodate a building of similar dimensions to that shown and a condition is recommended setting size parameters for any subsequent detailed application.

This condition also stipulates that the dwelling should be in line with the two properties either side – on the indicative plan it is shown to be just behind this line which, whilst allowing more space between the neighbours, could also raise greater overlooking concerns for the existing houses.

A further condition is recommended to remove permitted development rights and allow the authority to control the long-term development of the dwelling with a view to the limited size of the site.

Neighbour amenity – an acceptable future detailed application for this site will have to satisfy the authority that the new building will not cause a loss of amenity for the neighbours from overlooking. However, careful siting and design should be able to address these issues adequately.

Separation distances between the three properties should be adequate to avoid any overbearing effect – especially with a small single or 1½ storey design as required by condition.

The other issue of amenity raised is the question of the neighbouring water supply. This has now been discussed between the agent and the neighbours and the route of the pipe identified. This information can now be used to inform the detailed siting of any future house and will not result in disruption to the supply.

Croftland – the other issue raised most strongly in the third party objections was the impact this development (in conjunction with the 14/01511/PIP proposal) would have upon the viability of the croft.

The Crofting Commission have been consulted and have responded with their General Policy Response which basically raises the same considerations in respect of the continuing agricultural viability of the croft as Policy 47 of the development plan. The main considerations are;

- That the development avoids the better quality soils on the croft
- That the development does not result in access to the remainder of the croft being obstructed or unreasonably restrict the flexibility to cultivate and move stock on the remaining croft land
- That the remaining land is not reduced to an unviable size or form

There is no evidence to suggest that this site represents better quality in-by-land – the development of the same portion of the neighbouring crofts supports this conclusion.

With the public road winding its way up through this croft, access to remaining land is not compromised in any way.

Even taking the land loss associated with the 14/01511/PIP proposal into account alongside that lost to the two existing houses and this proposal, more than 75% of the original croft will still be available for purposeful crofting use.

Consequently, it is concluded that the proposal is in compliance with Policy 47 and no harmful loss of crofting land will result from the development.

Access and Parking – Taking access from the minor road running up through the croft is considered the correct approach from a road safety point of view. Positioning it opposite the access for 4a Dunhallin to the north is probably the safest but not the only access solution.

The road serves two other dwellings at present and so vehicle movement numbers are limited. Although the road is in poor condition at present, it is not considered that this development will cause any unacceptable further deterioration to this adopted road. The access will require to be formed to the appropriate standard.

Drainage – In terms of foul drainage, the application suggests the use of a treatment tank with outfall to a partial soakaway and the burn running down the length of the croft. This will, of course, require SEPA consent but there is nothing to indicate that there is not a technical foul drainage solution.

In terms of surface water drainage, the neighbour at 4a has raised concerns about the damage already being caused by water draining down the road and damaging the surface at the junction with the B.886. It is possible that this development could exacerbate this situation and a condition is recommended requiring any subsequent detailed scheme to include details of positive surface water drainage measures particularly in respect of the new access and existing roadside drainage.

#### **8.5 Other Considerations – not material**

- The existence of six consented house plots and a further four houses for sale in the locality is not a material consideration.
- The fact that the applicant does not live on the croft is not a material consideration for the planning authority
- The fact that the plots may be subsequently sold in the open market is not a material consideration

#### **8.6 Matters to be secured by Section 75 Agreement**

None

### **9. CONCLUSION**

- 9.1 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.

## 10. RECOMMENDATION

### Action required before decision issued N

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons:

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
  - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);
  - ii. the design and external appearance of the proposed development;
  - iii. landscaping proposals for the site of the proposed development (including boundary treatments);
  - iv. details of access and parking arrangements; and
  - v. details of the proposed water supply and drainage arrangements.

**Reason** : Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Any details pursuant to Condition 1 above shall show a development featuring the following elements:
  - i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;
  - ii. a roof covering of natural slate;
  - iii. single or 1½ storeys in height;
  - iv. windows with a strong vertical emphasis;
  - v. a roof symmetrically pitched of not less than 35° and not greater than 45°;
  - vi. predominantly rectangular in shape with traditional gable ends of no more than 7.6m in width
  - vii. a floor area of no more than 90m<sup>2</sup>

**Reason** : In order to respect the vernacular building traditions of the area and integrate the proposal into its landscape setting; in the interests of visual and neighbour amenity.

3. Any details pursuant to condition 1 above shall show the site access constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines with the junction formed to comply with drawing ref. SDB1.

**Reason** : To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

4. Any details pursuant to condition 1 above shall show car parking spaces provided within the curtilage of the dwellinghouse and formed in accordance with The Highland Council's Access to Single Houses and Small Developments prior to first occupation, thereafter being maintained for this use in perpetuity. Provision, which shall exclude garages, shall be as follows:

- i. Two spaces per 1 to 3 bedrooms;

**Reason :** In order to ensure that the level of off-street parking is adequate.

5. Any details pursuant to condition 1 above shall show a vehicle turning area within the application site formed in accordance with The Highland Council's Road Guidelines for New Developments. The turning area shall be provided prior to the first use of the development and thereafter maintained as a turning area in perpetuity.

**Reason :** To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

6. Any details pursuant to condition 1 above shall show surface water drainage provision within the application site which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and is designed to the standards outlined in Sewers for Scotland Second Edition (or any superseding guidance prevailing at the time).

**Reason :** To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment.

7. Notwithstanding the provisions of Article 3 and Classes 1, 2 and 3 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development of a type identified in the aforementioned classes shall take place within the curtilage of dwellinghouse hereby approved without planning permission being granted on application to the Planning Authority.

**Reason :** In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

## **REASON FOR DECISION**

The proposal accords with the provisions of the Development Plan and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application.



## **TIME LIMITS**

### **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE**

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle 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 & 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 & 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).

### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

### **Mud & 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.

**Permitted Development Rights**

Please note that certain permitted development rights have been removed from the land covered by the permission, as explained in the conditions above. This means that certain developments, for which an application for planning permission is not ordinarily required, will now require planning permission. You are therefore advised to contact your local planning office prior to commencing any future developments.

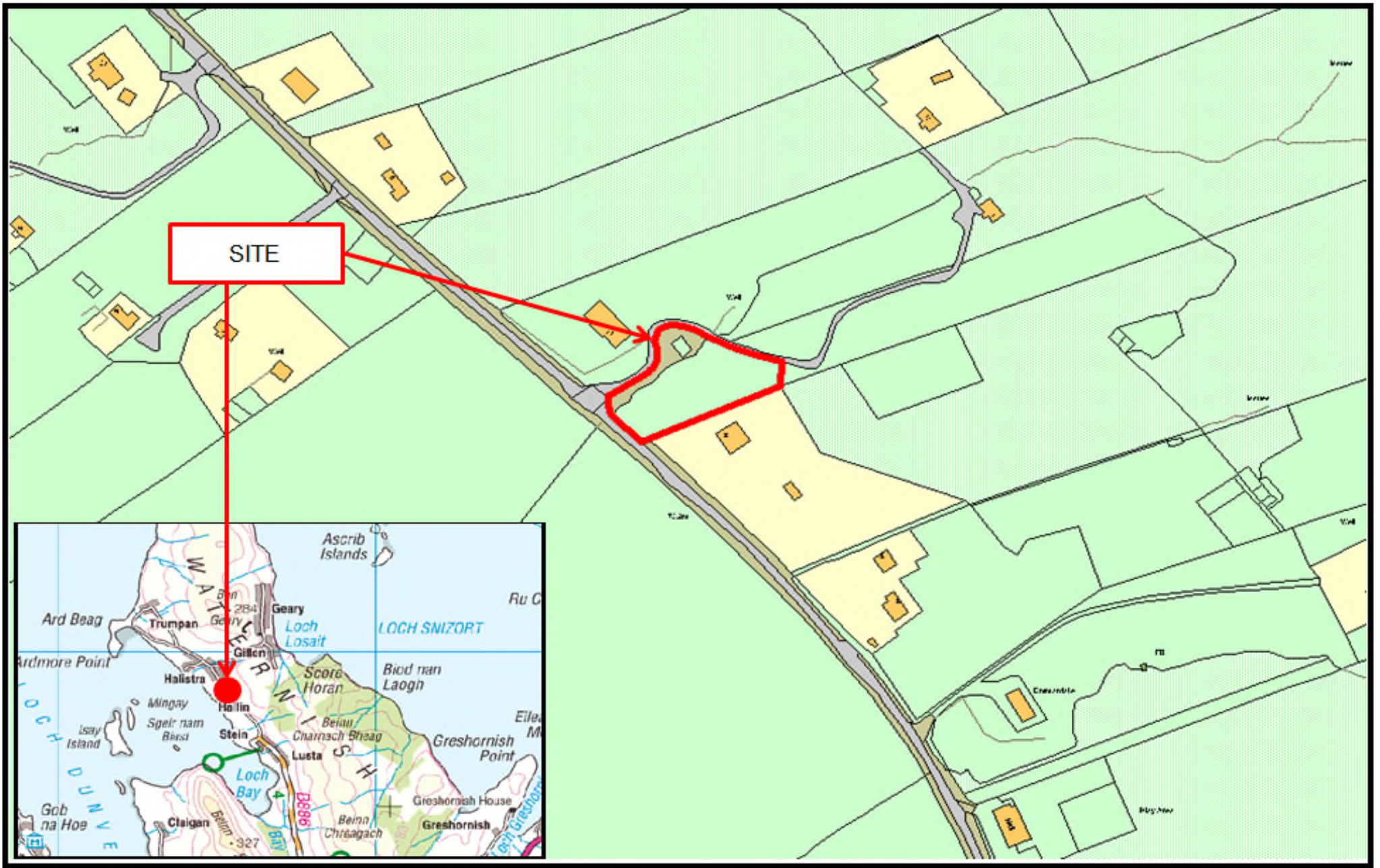
**Damage to the Public Road**

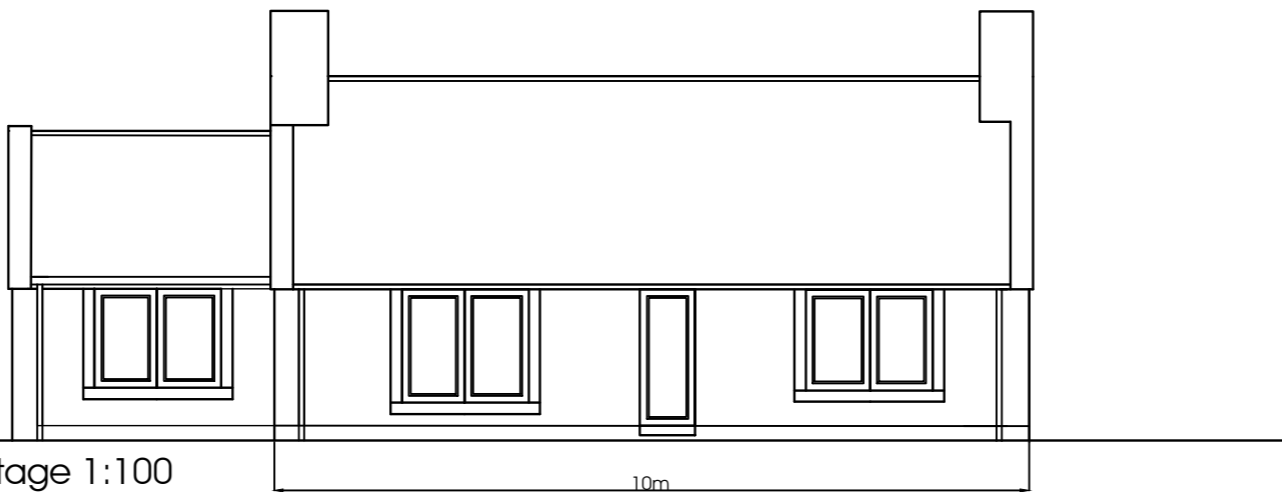
Please note that the Council, under Section 96 of the Roads (Scotland) Act 1984, reserves the right to recover all costs for repairing any damage to the public road (and/or pavement) which can be attributed to construction works for this development.

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Mark Harvey  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Site Plan

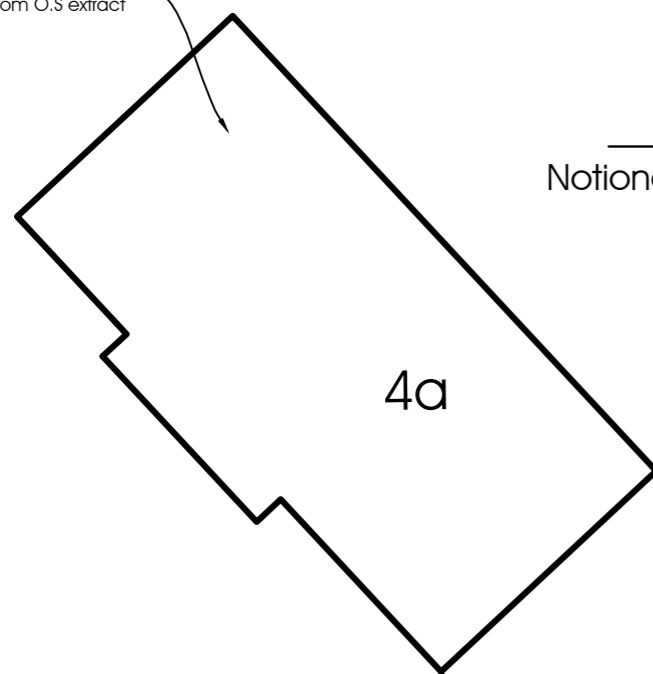
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Ian and Mrs Margaret MacLean	Parkside, 3 Dunhallin, Waternish	6 May 2014 & 7 May 2014 & 7 May 2014	Against
A MacDonald	15 Dunhallin	7 May 2014	Against
C Gillies	11 Dunhallin	7 May 2014	Against
Kenneth MacDiarmid	14 Dunhallin	7 May 2014	Against
Irene and Steve Lord	4A Dunhallin	7 May 2014	Against
Norman Gillies	12 Dunhallin	7 May 2014	Against
M Hand ?	1 Dunhallin	7 May 2014	Against
R Yarhall ?	2 Dunhallin	7 May 2014	Against
E Hulm ?	13 Dunhallin	7 May 2014	Against
Hilary Bumstead	19 Dunhallin	7 May 2014	Against
Tom and Norma Sparks	5 Dunhallin	7 May 2014	Against
Mr Robert Arnold	Dunhallin IV55 8GH	8 May 2014	Neutral





approx outline and size of existing house from O.S extract



line of existing watercourse

to End

4 Hallin

notional access  
bellmouth and servicebay  
position only

ruin

existing watercourse to  
be culverted in way of works

notional size and siting of  
proposed dwelling house  
ONLY

notional planting and hedging

3800 ltr  
treatment tank with  
outfall to nearby  
watercourse via partial  
soakaway to SEPA  
approval

outfall to burn via  
treatment tank  
and partial soakaway

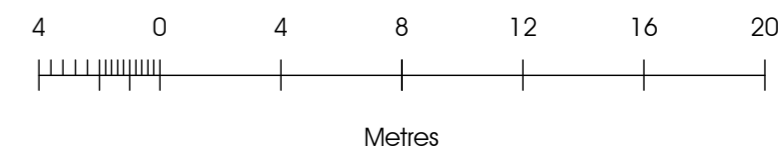
no building forward  
of this line

existing post and wire fence

towards Trumpan

3

approx outline and size of existing house  
from O.S extract



line of existing watercourse

towards Stein

Client: R. Mackinnon			
Project: Proposed house plot; land 25m South East of 4A Hallin, Watnish Isle of Skye			
Drawing Title: SITE PLAN		Stage: PLANNING IN PRINCIPAL	
Scale: 1:250	Date: 24/03/2013	Rev: A	Drg.No. 2 of 2
<b>Skyedesigns</b> 3 Clochamish · Edinbane · Portree · Isle of Skye · IV51 9NY Tel : 01470 582 252 Mob : 07793917405 email: ben@skyedesign.co.uk			

A2