

**THE HIGHLAND COUNCIL**

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

Agenda Item	6.7
Report No	PLN/055/14

**14/01830/FUL : Mr Edward Bernard  
Land 80M SE Of An Tigh Maiseach, 3 Skinidin, Dunvegan**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Erection of a single dwelling house with septic tank and soakaway.

**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 full planning permission for the erection of a one and a half storey, three bedroom dwelling of contemporary design but based closely on traditional form, scale and massing. The design features three dormer windows at first floor level under a slate roof with gable skews and twin gable chimney stacks, but the eastern corner of the ground floor is entirely glazed in a modern style.  
Its rectangular floor-plan (with single storey rear timber-clad addition) is orientated parallel to the section of the B.884 Dunvegan-Glendale road it faces, meaning that it looks north-east with the building on a south-east/north-west axis.
- 1.2 Formal pre-application advice was sought for this proposal earlier in 2014 and a generally positive response provided.
- 1.3 Access to the site is proposed from a single track road running along the north-western boundary of the site. This road gives access to a number of other dwellings and three chalets buildings at its south-western limit.
- 1.4 The application has been submitted with a supporting statement describing and justifying its various design features as well as its location and siting.
- 1.5 **Variations:** none

## **2. SITE DESCRIPTION**

- 2.1 As well as defining the north-western boundary of the application site, the single track access road also marks the south-eastern limit of the Skinidin settlement development area (SDA) boundary. Consequently, the site is some 20m outside the Skinidin SDA on land which generally falls away from the access road towards the east and north and the boundaries provided by the Brunigill Burn to the south-east and the B.884 road to the north-east.
- 2.2 A notable feature within this landform is a sizeable earth-covered rock outcrop occupying the south-eastern corner of the site. This has been chosen as a physical feature to place the proposed house next to.
- 2.3 The disposition of neighbouring properties to this site is an important material consideration. The three closest dwellings are positioned to the north and west and are relatively modern additions to the settlement. Along with another modern timber dwelling further to the north, these properties can be seen as forming a linear pattern which roughly parallels a much older line of dwellings in elevated positions to the west.

## **3. PLANNING HISTORY**

- 3.1 None on this site, but all of the development in this eastern part of the settlement dates from within the last 10 years.

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown Neighbour – 13 June 2014  
Representation deadline : 13 June 2014  
Timeous representations : 10 from 8 addresses – 2 addresses not provided  
Late representations : 6 from 5 addresses – 1 address not provided
- 4.2 Material considerations raised are summarised as follows:
- Site is outwith the Settlement Development Area requiring a higher standard of justification
  - Orientation and location of the proposal out of keeping with settlement pattern – creating a third tier of development closer to the B.884 and in a prominent gateway position
  - The settlement pattern has previously been identified by the planning service as consisting of two linear forms rather than being of a “scattered” character as suggested in the pre-application advice
  - Proposed access will not allow service vehicles to enter the site
  - Site is at risk from fluvial flooding from the adjacent Brunigill burn and flooded on 20<sup>th</sup> February 2014
  - Mix of traditional and contemporary design is confused and the 50° roof pitch is out of keeping with the maximum 45° pitch seen on traditional houses

- Single storey development would be more appropriate
- Existing adopted access track is in poor condition and should be upgraded to take account of increased traffic – the first 386m was adopted on 25 July 1988 as U4949
- Development in this location could set a precedent for further development outside the settlement development area
- There are sufficient undeveloped plots within the settlement development area
- Settlement already suffers from low water pressure problems

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 response confirming that other drainage solutions would be available if percolation of the land unsuited to soakaway proposed
- 5.2 **Development Plans** : Confirmed that SDA boundary was set as a tightly drawn line around the limits of existing development
- 5.3 **Roads Team** : No response at time of writing
- 5.4 **Scottish Water** : No response at time of writing
- 5.5 **Scottish Natural Heritage** : No objection – content with other survey conclusions

## 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 36	Development in the Wider Countryside
Policy 57	Natural, Built and Cultural Heritage
Policy 58	Protected Species
Policy 61	Landscape
Policy 64	Flood Risk
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

## 6.2 **West Highland and Islands Local Plan 2010**

Policy 2                    In terms of Settlement Development Area boundaries

## 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

## 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 just outwith the Skinidin Settlement Development Area and so Policy 36 of the Highland-wide Local Development Plan applies. Policy 36 supports development proposals which are not significantly detrimental in terms of their siting and design, sympathy to existing patterns of development, compatibility with landscape character, contribution to the existing mix of development types, avoidance of the loss of locally important croftland and which can be adequately serviced without undue public expense or incongruous development in a rural area.

Development proposals should also meet the Design for Sustainability requirements of Policy 28 and 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 58 requires survey work to be carried out when there is good reason to believe that a protected species or habitat is present on the site.

Policy 64 requires that proposals should avoid areas susceptible to flooding.

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

For the reasons laid out below, the proposal is considered to comply with these policy requirements and to be acceptable in principle.

#### 8.4 **Material Considerations**

Design, Appearance and Landscape Impact – this proposal is in a prominent ‘gateway’ location, relatively close to the public road and on the edge of the established settlement. In these circumstances, the degree of public comment received is understandable.

Many of the submitted objections make the point that the proposal falls outside the SDA for Skinidin. A few suggest that this is a reason for refusal in itself, however this requires consideration of the proposal in the context of Policy 36 of the plan which specifically makes provision for development in the wider countryside and states that it will be allowed so long as it does not have a “significantly detrimental” impact as a result of failings in its siting and design, sympathy to existing patterns of development and/or compatibility with landscape character and capacity. Such a significantly detrimental effect would be manifested in overall visual terms and result in an unacceptable landscape impact.

Although the site is only some 20m beyond the SDA boundary, these considerations are relevant to development proposals inside the SDA also (see Policy 34) and so significant weight should be given to them in any recommendation.

In terms of design and appearance the building is considered to strike a comfortable balance between the traditional appearance of a one and a half storey, three-dormer croft house and a more modern design. Overall, despite a slightly steeper than average roof-slope, the traditional form takes precedence with a slate roof, gable skews and chimneys over white rendered walls. The timbered single storey rear ‘extension’ is a common feature of such properties and it is only within the south-east gable elevation and north-east front elevation that the modern ground floor glazing breaks into this the traditional form.

The overall effect is one of a contemporary house of traditional form and finish and this should allow it to find its place in the landscape. The decision to place the building close to the natural mound within the site is also welcomed and, again, is considered to help the new building integrate with the site – this position is a natural siting for a building. At the same time, the design is considered to have sufficient ‘presence’ and a strong enough unique character to occupy this prominent gateway location.

Siting and Settlement Pattern - However, it is the siting of the building relative to what is described as the established settlement pattern that has raised most comment from third parties. The argument put forward is that Skinidin’s historic linear settlement pattern (set-back some 400m from the B.884 road) has been augmented in recent years by a line of four new dwellings in a parallel line much closer to the road frontage and that further new development should conform to

one of these two linear forms. Indeed, it is suggested that an earlier planning decision alluded to this point in resisting a house site in 2006 (see planning applications 06/00137/OUTSL and 06/00136/FULSL).

Whilst it is recognised that these four modern dwellings (all built within the last 10 years) do fall within a line, it also has to be recognised that they do not form part of the historic settlement pattern. Their linear form has not been the result of compliance with a policy but more the natural outcome of development on neighbouring land holdings with specific natural constraints in terms of landform and access.

It is noted that the most recent planning permission granted in this eastern zone of the settlement development area – 11/01208/FUL - was for a dwelling just 45m back from the B884 road frontage. Although never built, a house in this location would have stepped forward from the linear form and begun to suggest a more scattered settlement pattern. It is roughly the same distance back from the B884 road frontage as the current proposal.

In the modern planning context, the form of the SDA defined in 2010 gives no recognition to this recent linear pattern and places all the land between the historic settlement line and the B.884 within a large rectangular area. The supporting text for Policy 34 of the Highland-wide plan states that SDAs,

*“...are the preferred areas for most types of development, including housing...”*

and that,

*“...When defining Settlement Development Areas we have taken account of a number of things, including...the pattern of existing settlements...”*

Development Plans officers have confirmed that the boundaries of the SDA at Skinidin were drawn to reflect the limits of existing development and not as an indication that no future development would be acceptable beyond them.

Consequently, it is considered that a much less linear, scattered form of future development would be acceptable within this eastern part of the SDA and that, consequently, this proposal would be spatially compatible with the future pattern of development envisaged by the development plan. More importantly, in this context, the non-conformity of the current proposal with the modern linear settlement pattern cannot be described as “significantly detrimental” to the landscape character of the area.

In terms of public views from the road, the proposed building will be closer and more prominent than the two neighbouring properties to the west, but not materially closer to the road frontage than the two dwellings to the north. It will not look out of place or incongruous and, again, no significantly detrimental impact will result.

The argument that such a development will set a precedent for further planning permissions outside the SDA to the south is not accepted. This proposal is only 20m beyond the SDA boundary and the Brunigill Burn represents a clear visual and physical edge to further development. Further development in this direction could be and would be strongly resisted using the same arguments as above.

Neighbour amenity – although there is some concern from neighbouring dwellings about a loss of outlook – which is not a material consideration – the separation distances involved indicate that loss of amenity due to overlooking or overbearing will not be an issue with this proposal.

Flood Risk – this is the second major point of objection raised by objectors. However, although part of the wider land ownership (adjacent to the burn) falls within the 1:200 year medium to high flood risk area, no part of the actual application site is within this area.

Consequently, in statutory terms, the site is not within a flood risk area. Policy 64 does state that other evidence of flood risk beyond the official flood risk maps can be taken into account and it is noted that some objectors have alluded to the general wetness of the site and to a specific flood incident in February 2014. However, even this evidence does not suggest that a house in this location would have been damaged or that its occupants would not have had a safe escape route had the worst happened – the main flood risk concerns for SEPA.

Consequently, flood risk can be given little weight in this recommendation.

Drainage – the application states that soakaways will be provided as drainage solutions for both foul and surface water but their exact design will be determined in the light of future percolation testing. Given the site position there must be some doubt as to whether ground conditions will prove amenable to soakaways but this is a matter ultimately for technical agreement at the Building Warrant stage. Building Standards officers have confirmed that other technical solutions are available if the soakaway proposal was not acceptable.

Access and Parking – at the pre-application stage the applicants were advised to take access from the small road to the north rather than the B.866 and to incorporate a standard access design with service bay. The application shows that this advice has been followed. The service bay will provide the dual function as a passing bay also.

Some doubt has been expressed by objectors as to whether such an access would be sufficient for large vehicles to turn into. However, this is a common access geometry across the island and there is no reason to believe it will prove insufficient in this case. It is not considered that there is a justification for a larger access to this single dwelling.

Further comments have suggested that the road is already in a very poor state of repair and that use of it by the vehicles associated with the new house will result in further deterioration. However, it is not considered that the marginal increase in traffic movements created by this dwelling will have a significant effect on the existing quality of the road. It is a length of publically adopted road that is in poor condition at present but which, as a result of its adopted status and like numerous other minor roads on the island, will be repaired at public expense when budgets allow. To require the applicants to carry these repairs would be onerous and unjust.

However, the roads authority reserves the right, under Section 96 of the Roads (Scotland) Act 1984, to recover all costs for repairing any damage to the public road which can be attributed to construction works for this development.

Ecology – concern was expressed at the pre-application stage about the possibility that the proposal could have an impact upon otter habitat in the Brunigill Burn. In their consultation response, SNH have confirmed that the previously submitted 2012 otter survey can still be relied upon and that its conclusions indicate that the development will not have any unacceptable impact upon this protected species.

Conditions – the removal of permitted development rights is recommended to enable the authority to control the design of outbuildings and other domestic additions in this visually prominent site.

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

n/a

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

n/a

### 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 other development shall commence until the site access has been upgraded in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 21 July 2014), with the junction formed to comply 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.

2. No development or work shall commence until a detailed specification for all proposed external materials and finishes (including trade names and samples where necessary) has been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

**Reason** : To ensure that the development is sensitive to, and compatible with, its context and local architectural styles.



3. 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 the 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**

#### **LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION**

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission 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.

### **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.

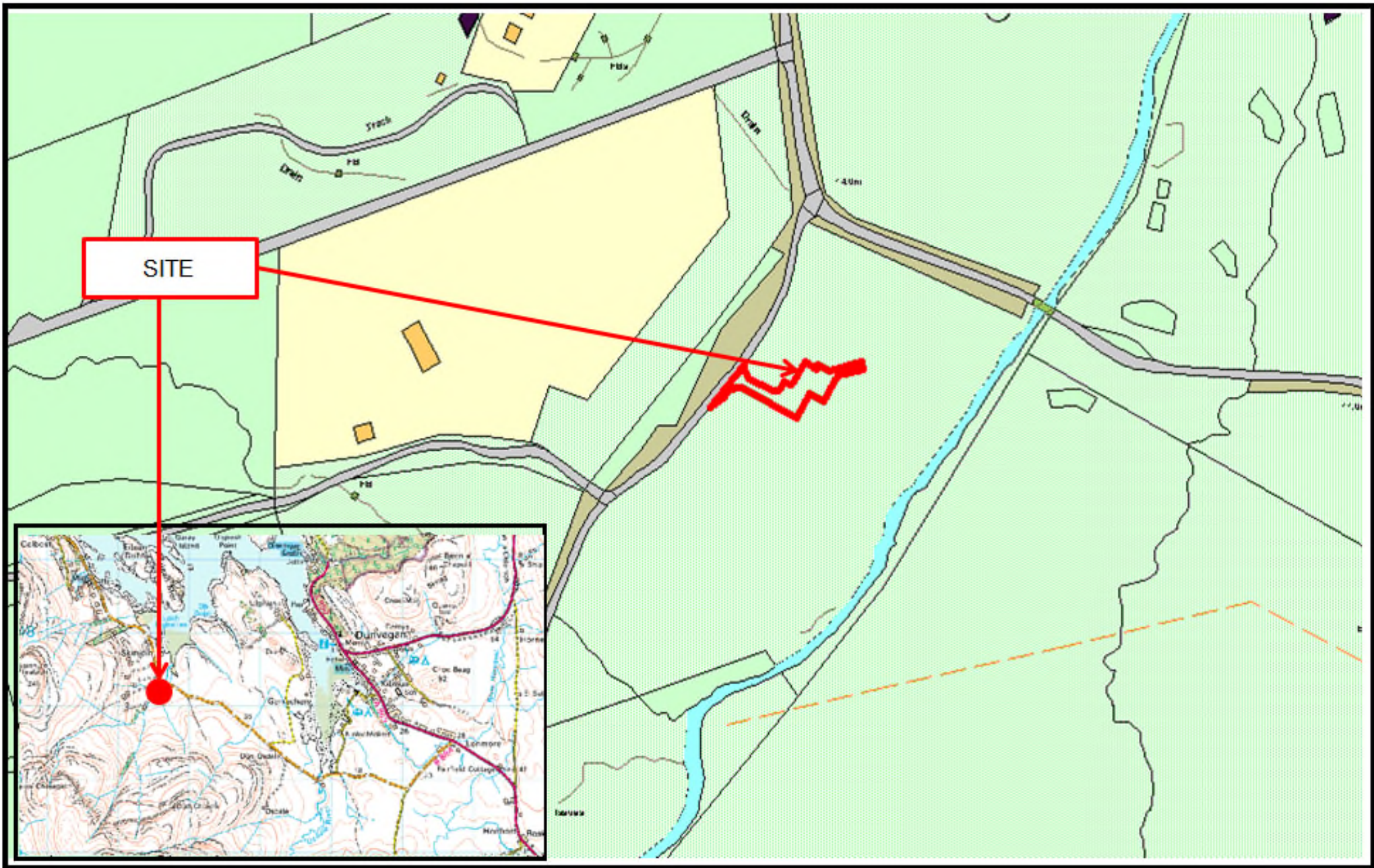
### **Permitted Development Rights**

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.

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 1031-000  
Plan 2 – Topography Plan 1031-001  
Plan 3 – Topography Plan 1031-002  
Plan 4 – Site Layout Plan 1031-101  
Plan 5 – Elevations SK01  
Plan 6 – Elevations SK02  
Plan 7 – Floor Plan 1031-102

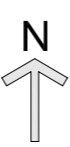
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Malcolm and Karen Berry	Chreagach Tigh, 3b Skinidin	6 June 2014	Against
Mr R M and Mrs J Corrie	An Tigh Maiseach, 3 Skinidin	7 June 2014	Against
Juliet Moleta	Not provided	11 June 2014	Against
Mr Scott Ross	Not provided	11 June 2014	Against
Mrs Margaret Robinson	12 Franks Avenue, New Malden	11 June 2014	Against
Ms Rachel Hazell	Timber House, Skinidin	11 June 2014	Against
Tim and Blair Hunter Davies	2 Skinidin	12 June 2014	Against
Mrs Patricia Davies	7 Totaig Chalet	12 June 2014	Against
William and Krista MacInnes	9 Skinidin	12 June 2014	Against
Mr Kevin Stockley	Tigh Caorann 5 Skinidin	13 June 2014	Against
Mr and Mrs R W Salter	Brunigill Farm, 3 Skinidin	16 June 2014	Against
Miss R A Salter	2 Old Post Office Row, Edinbane	16 June 2014	Against
Sue and Chris Robbins	Edinbane	16 June 2014	Against
Mr F G W Tarry	4 Skinidin	16 June 2014	Against
Mr Iain Copeland	3 Braevalla Chalets, Skinidin	16 June 2014	Against
Mrs G Salter	Ellens Cottage, 3 Skinidin	16 June 2014	Against



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Notes:



0m 10m 20m 30m 40m 50m 100m

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mail@riacharchitects.com www.riacharchitects.com

Client  
**Edward and Anne Bernard**

Project  
**Land near Skinidin, Isle of Skye**

Drawing title  
**Topographical Survey**

Date **May 2014** Scale **1:500@A1**

Stage	Drawn By	Checked By
-	-	-

Drawing Number	Revision
1031-001	-

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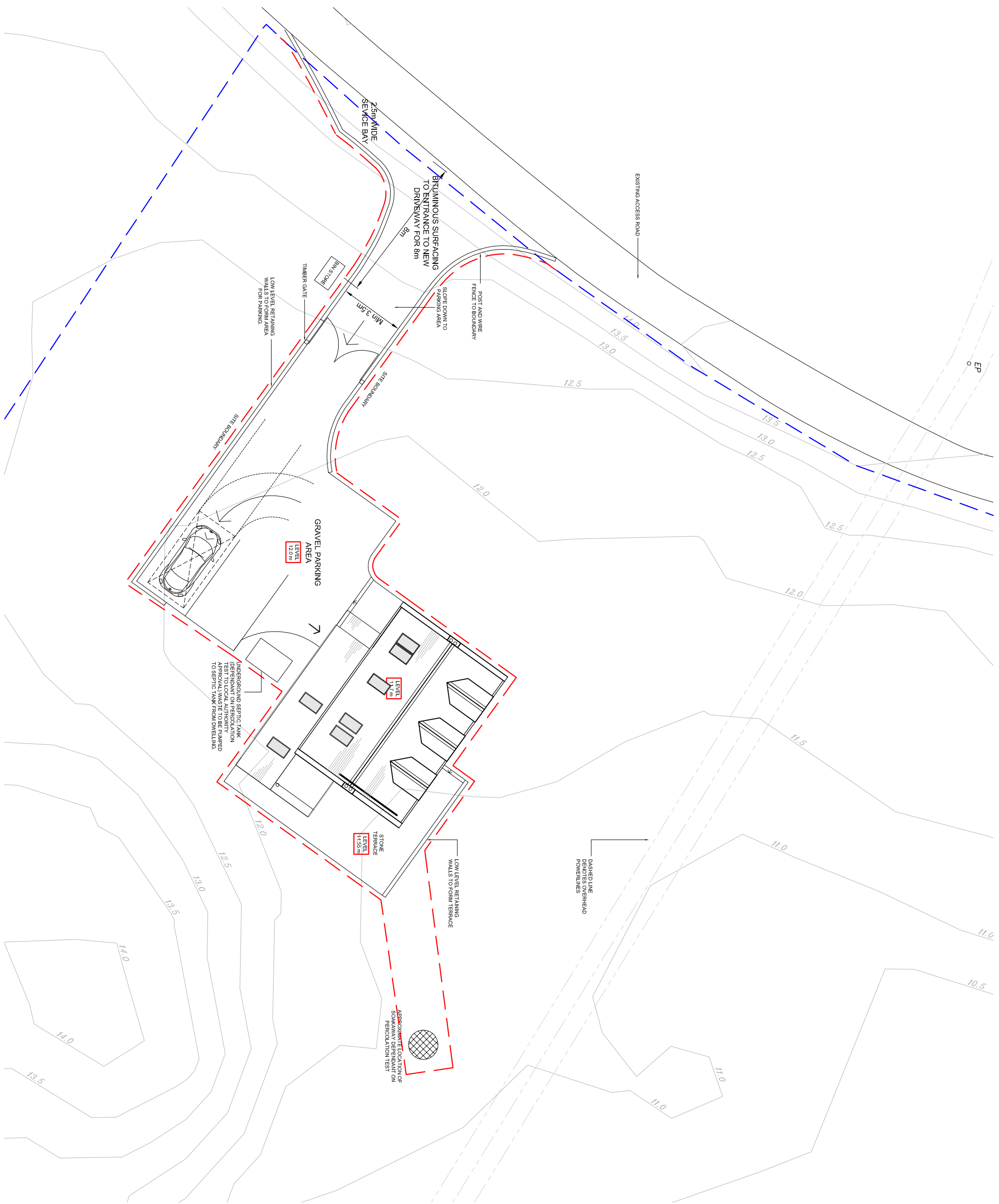


**RIACH**  
architects

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mia@riachitects.com www.riachitects.com  
Client  
Edward and Anne Bernard  
Project  
Land Near Skindin, Isle of Skye  
Drawing title  
Topographical Survey, South of B884  
Date  
May 2014  
Scale  
1:200@A1  
Stage  
Drawn By  
Checked By  
Drawing Number  
1031-002  
Revision

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Client  
**Edward and Anne Bernard**

Project  
**Land near Skinidin, Isle of Skye**

Drawing title  
**Site Plan**

Date  
**04/2014**

Scale  
1:200@A3

Stage  
-

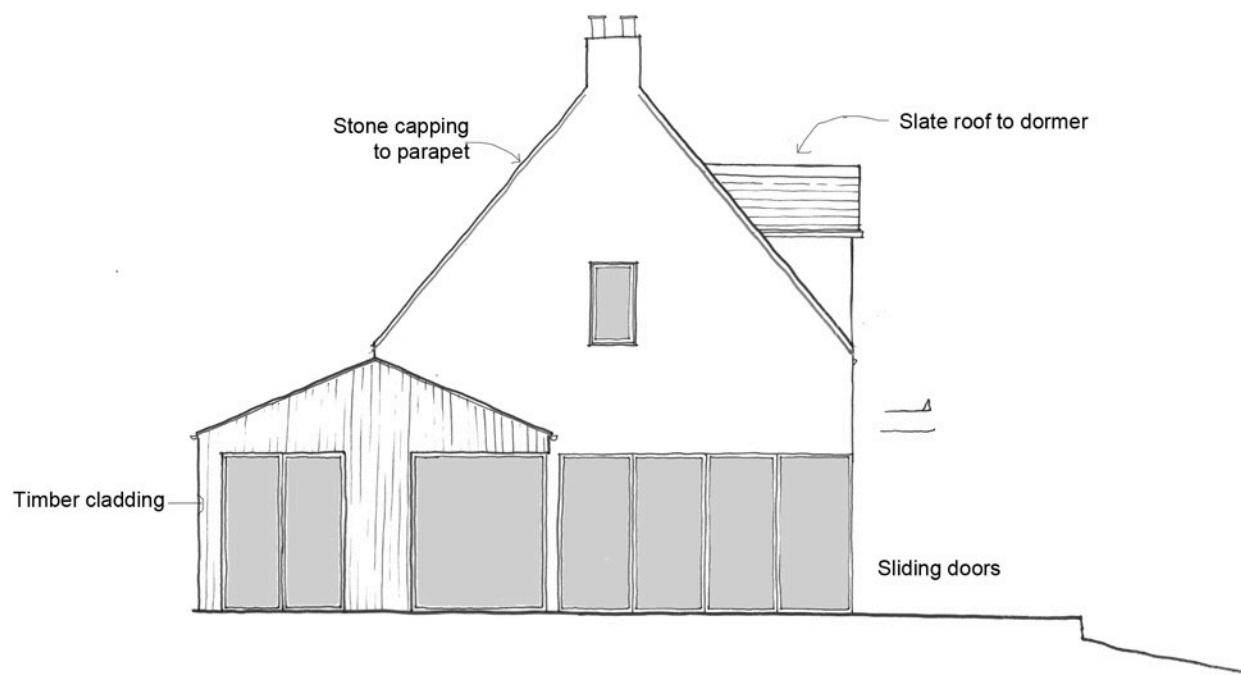
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**AL**

Checked By  
**AH**

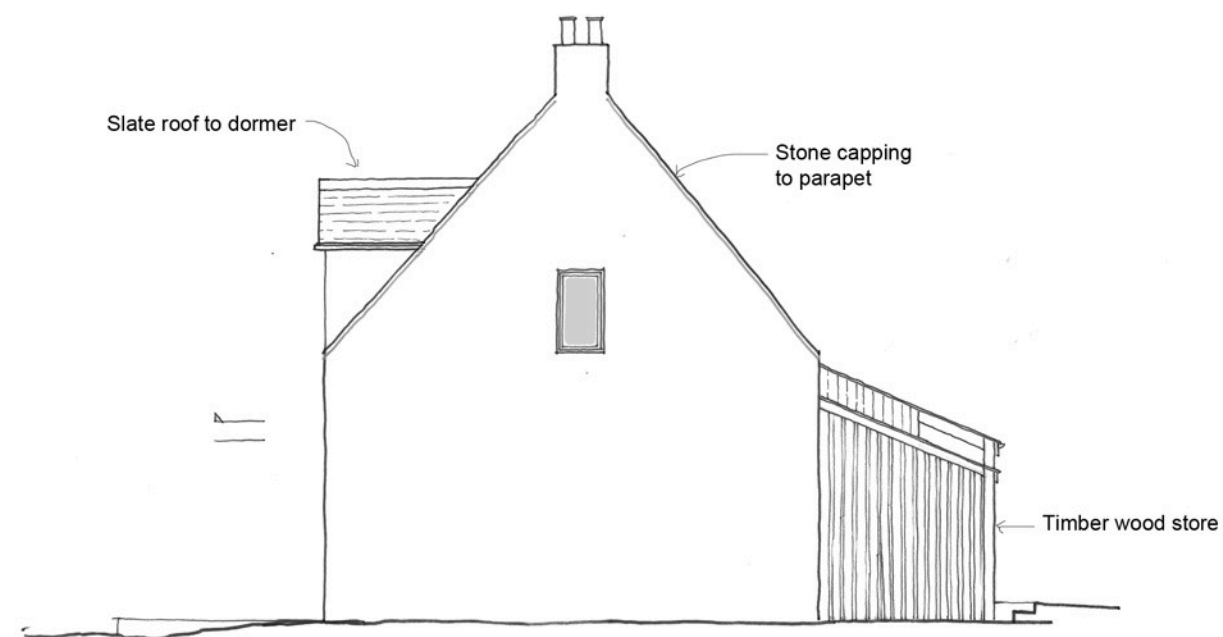
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**1031-101C**

Revision  
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EAST ELEVATION  
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WEST ELEVATION  
1:100 @ A3

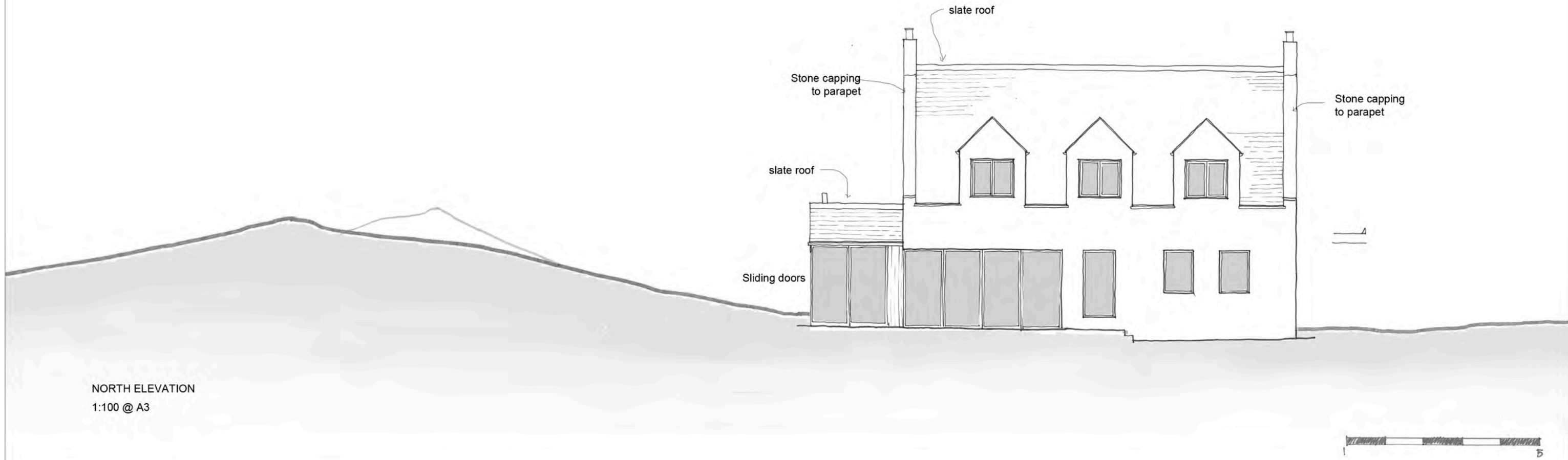


SOUTH ELEVATION  
1:100 @ A3





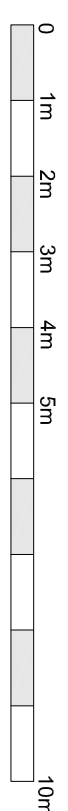
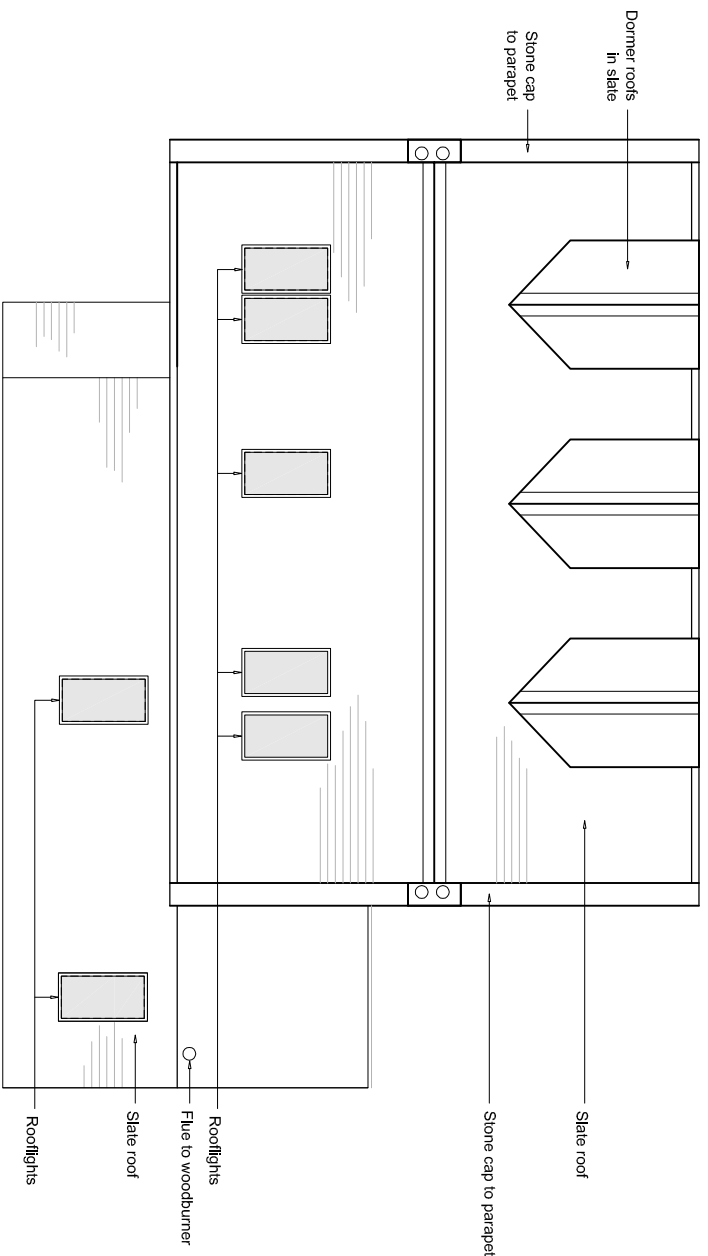
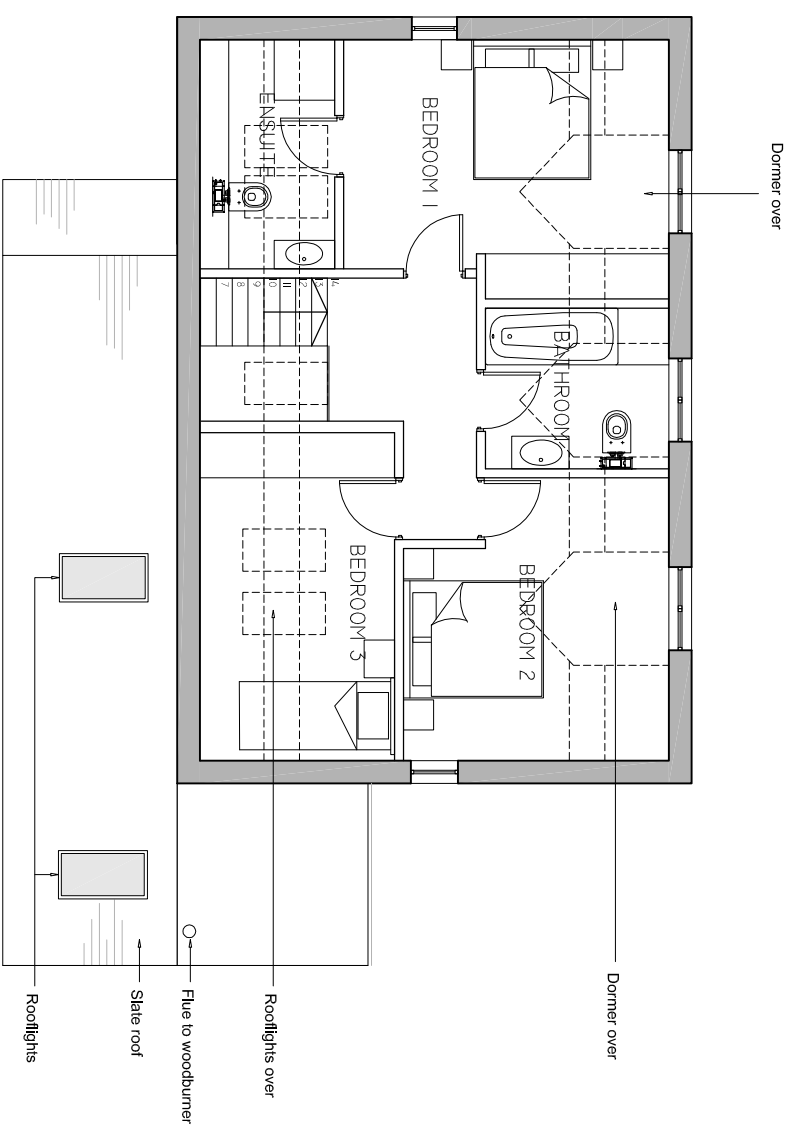
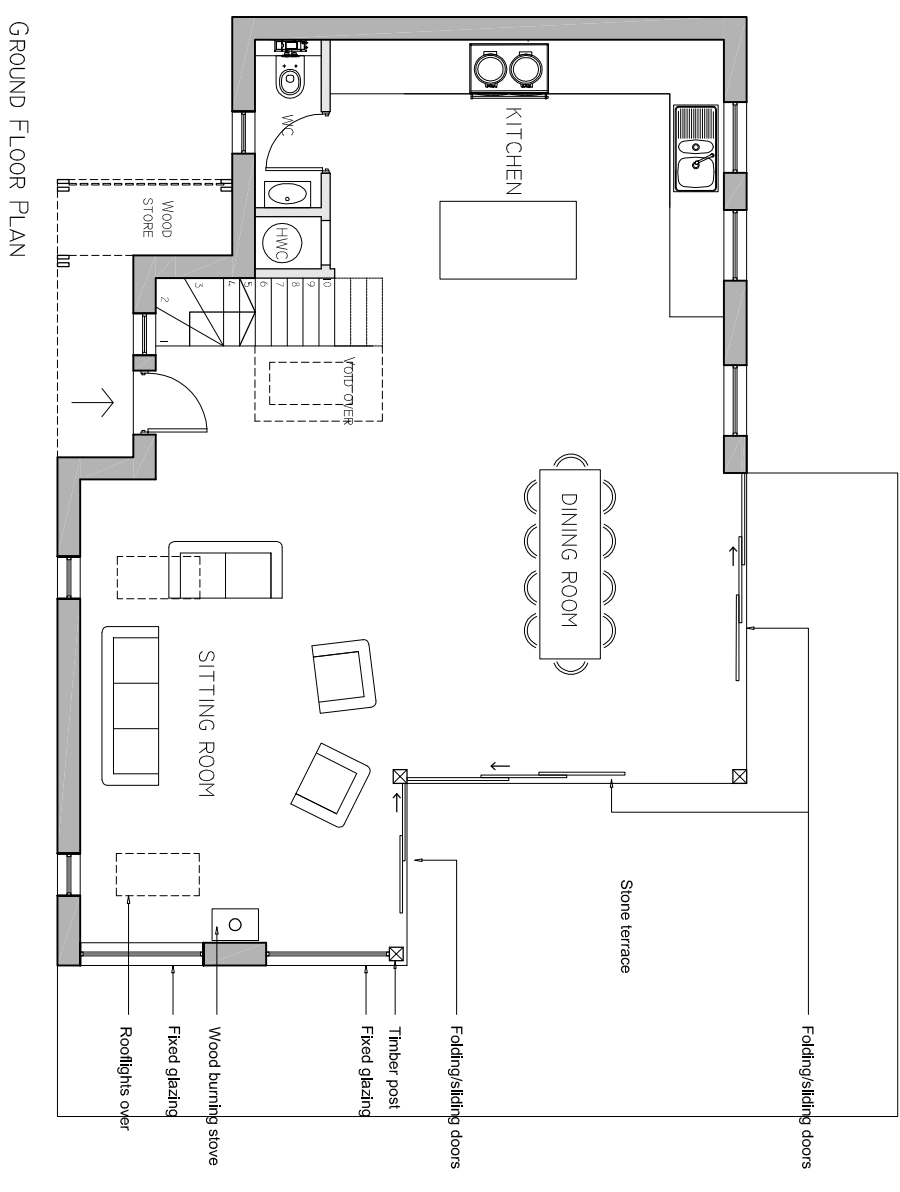
View from South West [Not to scale]



NORTH ELEVATION  
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**Client**  
 Edward and Anne Bernard  
**Project**  
 Land near Skinidin, Isle of Skye

**Drawing title**  
 Proposed Plans

**Date** 04/2014  
**Scale** 1:100@A3

**Stage** -  
**Drawn By** AL  
**Checked By** AH

**Drawing Number** 1031-102C  
**Revision** C