

Agenda item	<b>5.6</b>
Report no	<b>PLN/016/18</b>

## THE HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee

**Date:** 6 March 2018

**Report Title:** 17/05293/FUL: Mr Neil Maclean  
Land 60M SW of Fon Tobar, 8 Lower Milovaig Skye.

**Report By:** Area Planning Manager – North

### 1. **Purpose/Executive Summary**

1.1 **Applicant:** Mr Neil MacLean

**Description:** Erection of earth sheltered house, formation of access and installation of septic tank and soakaway.

**Recommendation:** GRANT

**Ward:** 10 - Eilean A' Cheò

**Development Category:** Local Development

**Reasons Referred to Committee:** More than five objections

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.

### 2. **Recommendation**

2.2 Members are asked to agree the recommendation to approve as set out in section 11 of the report.

### 3. PROPOSED DEVELOPMENT

- 3.1 Planning permission is sought for the erection of a two bedroomed single storey house and associated infrastructure. The proposed single aspect house is orientated to face seaward with its rear elevation towards the road. The footprint of the house extends to 130m<sup>2</sup>, or thereby. The principal behind the contemporary design of the property is that the house will be sunk into the site with only the top 0.5m of the rear and side elevations visible above ground level. In order to achieve this the site will be excavated to depths of up to 2.8m below the existing ground levels. The property will have a mono pitch sedum/turf roof. The exposed rear and side elevations will be clad in timber.

Access is to be taken from the existing driveway which serves three houses; Fon Tobar, Eas Mor and Ard Meanish 8 Lower Milovaig. A new septic tank and soakaway system is proposed.

- 3.2 No formal pre-application was given for this proposal or the withdrawn design that preceded it.
- 3.3 The site currently benefits from access onto the driveway, which lies to the west, and serves the existing houses. There is a field gate into the site.
- 3.4 **Supporting Information:** Ground investigation report, visualisations.
- 3.5 **Variations:** None

### 4. SITE DESCRIPTION

- 4.1 The site is an area of open grassland which extends to 0.28 hectares, or thereby. It lies below the level of the township road, set back by approximately 125m. In this part of Milovaig the general settlement pattern consists of detached houses forming a ribbon of development on the south west side of the township road and a scattering of housing contained within the natural steps of the landform which lies to the north east and below the level of the road. The nearest house is Fon Tobar which is located 60m to the north east of the site.

### 5. PLANNING HISTORY

- 5.1 16/02735/FUL - Erection of dwelling house – Withdrawn 13.03.2017  
17/01117/FUL – Erection of earth sheltered house – withdrawn 25.07.2017

### 6. PUBLIC PARTICIPATION

- 6.1 Advertised : Unknown neighbour 08.12.2017  
Representation deadline : as above  
Timeous representations : 6 from 6 addresses  
Late representations : 0

- 6.2 Material considerations raised are summarised as follows:
- Over development of land at 8 Lower Milovaig
  - Visual impact of skyline development and out of character with settlement pattern.
  - Road capacity and condition, water supply and internet are already overstretched in the settlement.
  - Drainage problems due to saturated ground.

6.3 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.

## 7. CONSULTATIONS

- 7.1 **Forestry Officer:** No objections, consultation received in error.
- 7.2 **Building Standard Service:** No objections. Information required at building warrant stage with respect to ground water levels, water control and drainage design.

## 8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 8.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable design
Policy 29	Design Quality and Place –Making
Policy 34	Settlement Development Area
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

### 8.2 West Highland and Islands Local Plan 2012 (as remains in force)

In respect of settlement development area boundaries for Upper and Lower Milovaig.

## 9. OTHER MATERIAL CONSIDERATIONS

### 9.1 Draft Development Plan

#### West Highland and Islands Local Development Plan - Proposed - 2017

Refer to Highland wide Local Development Plan.

### 9.2 Highland Council Supplementary Planning Policy Guidance

Not applicable

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

A Successful, Sustainable Place - Enabling Delivery of New Homes

## 10. **PLANNING APPRAISAL**

10.1 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.

10.2 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.

### 10.3 **Development Plan Policy Assessment**

The site falls within the Settlement Development Area for Lower and Upper Milovaig Policy 34 of the Highland-wide Local Development Plan directly applies and states that development proposals will be supported within Settlement Development Areas as long as they are compatible with the requirements of sustainability design. Policy 28 identifies the following key considerations relevant to this proposal; siting, design and impact on landscape qualities, compatibility with public service provision in addition to the impact on individual and community residential amenity.

10.4 Policies 29 and 61 reiterate the need for proposals to make a positive contribution to the visual quality of their location and to be compatible with the existing pattern of development and natural heritage features. In respect of the latter the site lies within the Council's designated Special Landscape Area: North West Skye.

10.5 Policies 65 and 66 require proposals to address the issues of foul and surface water drainage.

10.6 The proposal is considered to be generally compatible with these policy requirements for the reasons set out below.

### 10.7 **Material Considerations**

### 10.8 **Planning History**

10.9 The applicant previously submitted a proposal (16/02735/FUL) for a single storey house of the same footprint as currently proposed designed as a traditional property with a double pitched roof and hipped gable ends. This proposal was not seen to respond positively or sit comfortably with the landscape form and character. In the face of officer and public criticism, the applicants decided to withdraw the application. An initial follow-on application submitted in March 2017 (17/01117/FUL) was also withdrawn due to a lack of sufficient information to allow a full assessment of the proposals. This latter application was for the design of house now proposed.

Two further permissions have recently been granted for land to the west of Fon Tobar and Eas Mor, (17/04537/PIP and 17/04541/PIP). These sites lie on the natural step in the land form on which Fon Tobar and Eas Mor have been developed. The

sites will be accessed from the township road by the formation of a separate access track which will run across the open plateau and parallel to the existing track which serves the above properties.

#### 10.10 **Siting, Design and Landscape Impact**

10.11 The siting of the house takes advantage of the existing undulating landform which offers a natural hollow within which it is considered the development can be accommodated. In recognition of the concerns expressed about the degree to which the original design of house would be visible from public viewpoints, the design has been completely reconsidered. It is acknowledged that the turf roof of the house and 0.5 metres height of the rear and gable walls will be visible when viewed from the public road immediately above the site as well as for a short distance when travelling along the road from east to west.

The applicant was required to carry out detailed ground investigation works to determine the makeup of the ground to the depth of the proposed foundations in order to support and demonstrate that the house can be set at the proposed ground level. The works involved the whole site being excavated in December 2017 down to the level of the foundation footings. The site was then backfilled. The investigation indicated that the ground conditions varied slightly across the site from corner to corner but in each case solid rock was not evident above the proposed foundation level. These findings demonstrate that the proposed finished floor level for the house is achievable.

The comments expressed by third parties regarding the prominence of the development and the impact that it will have on the visual appearance of the 'plateau' of Lower Milovaig are noted, however based on the information provided following the ground investigation works and the manner in which the house has been designed and will be finished, it is considered that the development can be readily absorbed into its surroundings without significant impact on the visual or landscape character of the area.

There will also be an opportunity to use some of the excavated material to landscape around the rear and east elevations to further assimilate the development into the site. This matter will be covered by a planning condition.

Other comments criticise the number of houses that have been built on the croft land of 8 Lower Milovaig and suggest that the development is incompatible with the scattered pattern of development. Whilst it is recognised that this proposal and the existing houses will create, in plan form, a cluster of development it is not considered that this proposed house will be "significantly detrimental" (the policy criteria) to the visual qualities of the settlement, particularly due to the change in levels between the proposed development and the houses Fon Tobar, Eas Mor and Ard Meanish.

10.12 **Neighbour amenity**

10.13 The closest neighbour Fon Tobar lies 60m or thereby to the north east of the site. This property lies at a considerably lower level than the proposed development and given the separation distance it is considered that there will be no significant loss of residential amenity.

10.14 **Access and Parking**

10.15 The existing access junction with the public road is considered adequate to accommodate the additional traffic that will be generated by a two bedroomed house.

Concern has been raised about the capacity and condition of the local road network in the context of increased vehicle movements associated with this and other proposals in the area. Undoubtedly additional vehicular movements will be generated, however these are not considered to be significant enough to justify more extensive road improvements or refusal of the application.

10.16 **Drainage**

10.17 Details of the proposed foul and surface water soakaway provisions have been submitted. Building Standards have commented that further details including percolation test results will be required for the building warrant and drainage of the access road will need to be addressed also. Third party comment has been made about the need for the foul drainage system to be adequate for the development and to prevent pollution of the surrounding ditches. The final details of the system will require to meet the requirements of the Building Regulations and the management and maintenance of the system is the responsibility of the developer who requires to comply with the Regulations. A condition is recommended to ensure that an acceptable design is agreed prior to commencement of the development. As such there is no conflict with the requirements of Policies 65 and 66.

10.18 **Services Capacity**

10.19 A number of third party objections have suggested that water supplies are already at critically stretched levels for the settlement and any new development will make this worse. It is recommended that the applicant make a pre-development enquiry to Scottish Water (as they have recommended for other developments in the area) to establish whether capacity is available or, if not, the timescale for capacity improvements.

10.20 **Other Considerations – not material**

10.21 A number of points were raised by third parties that are not material planning considerations;

- the existing house Fon Tobar is clearly visible and obscures views from house on the upper side of the township road.
- Internet bandwidths are critically stretched and will be exacerbated.

10.22 **Matters to be secured by Section 75 Agreement**

10.23 Not applicable

**11. CONCLUSION**

11.1 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.

**12. IMPLICATIONS**

12.1 Resource – Not applicable

12.2 Legal –Not applicable

12.3 Community (Equality, Poverty and Rural) –Not applicable

12.4 Climate Change/Carbon Clever –Not applicable

12.5 Risk – Not applicable

12.6 Gaelic – Not applicable

**13. 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 / notes to applicant:

1. The development hereby approved shall not be carried out other than in full accordance with the sectional level information provided on approved drawing 4 of 4 Rev B dated 22/02/2017 and titled “Proposed Elevations, Floorplan and Section”.

**Reason:** In order to ensure the visual impacts of the building are no greater than presented by the submitted application details.

2. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. a plan indicating the distribution of all of the material that will result from the excavation of the site.
  - ii. All earthworks and existing and proposed finished ground levels in relation to an identified fixed datum point including the formation of bunding to the rear and east of the house.
  - iii. The location and design, including materials, of the proposed fencing and gates.

iii. Specification for the gravel to be used around the house and on the access track.

Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.

**Reason :** In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

3. Prior to the first occupation of the dwellinghouse, parking spaces for a minimum of two cars shall be provided as detailed on the approved plans and shall thereafter be maintained for this use in perpetuity.

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

4. The flue shall be coated with a dark non reflective finish, all to the satisfaction of the Planning Authority.

**Reason :** In the interest of visual amenity

5. Notwithstanding the provisions of Article 3 and Class(es) 1, 2, 3 and 6F 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 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

6. No development shall commence until full details of all foul drainage infrastructure (including treatment plant and soakaway locations) have been submitted, to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with the approved details.

**Reason :** In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

7. No development or work shall commence until a detailed specification for any proposed external paint or stain 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.



## **REASON FOR DECISION**

The proposals accord with the provisions of the Development Plan and 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 and 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 and 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads\\_and\\_pavements/101/permits\\_or\\_working\\_on\\_public\\_roads/2](http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_or_working_on_public_roads/2)

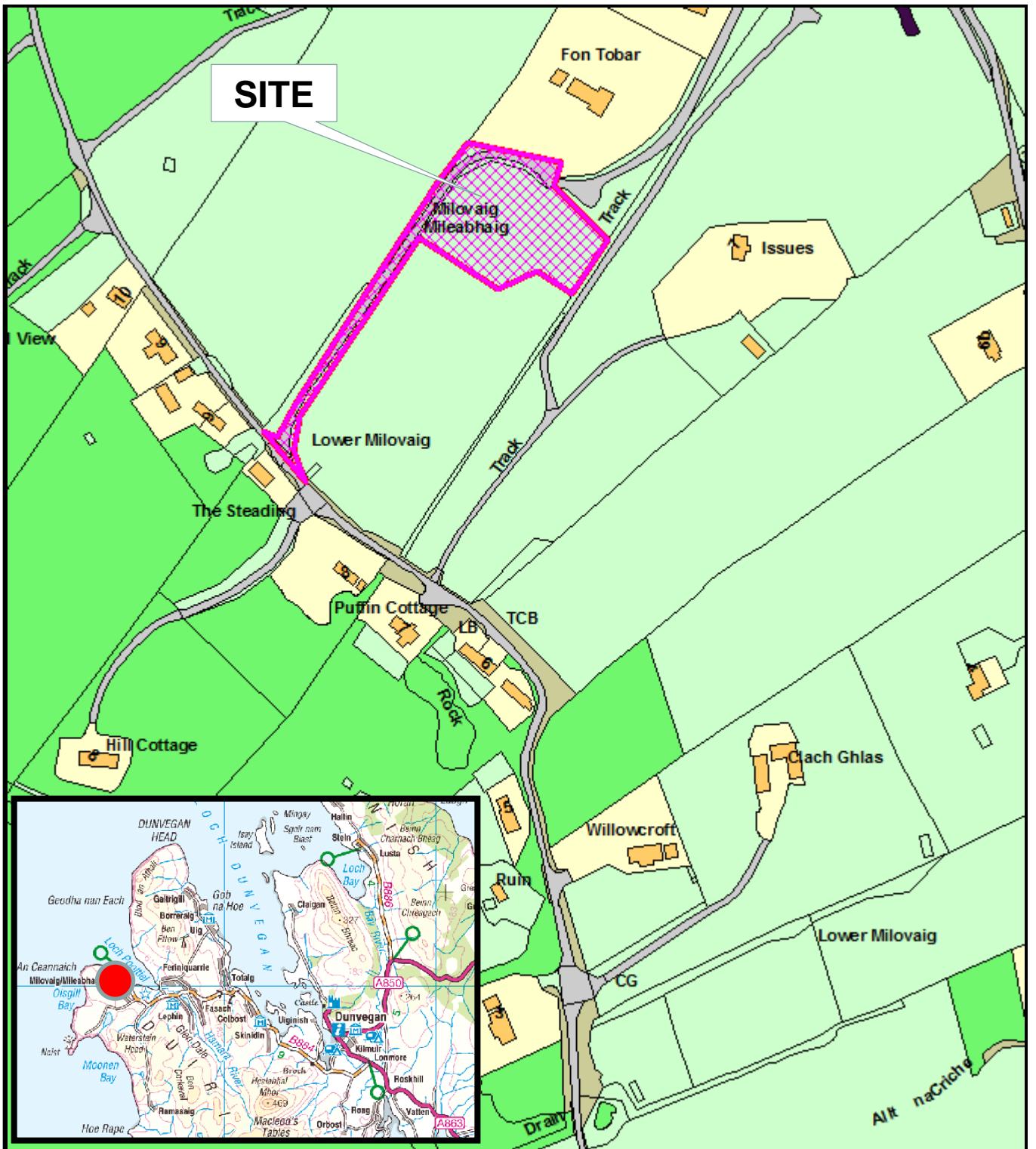
### **Mud and Debris on Road**

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.

Signature: Mark Harvey  
Designation: Team Leader  
Author: Erica McArthur  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan 1 of 5  
Plan 1 – Location Plan 2 of 5  
Plan 2 – Block Plan 3 of 5  
Plan 3 – Site Plan 4 of 5  
Plan 4 – Elevations and Floor Plan 5 of 5



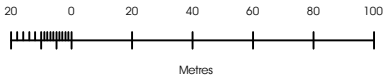
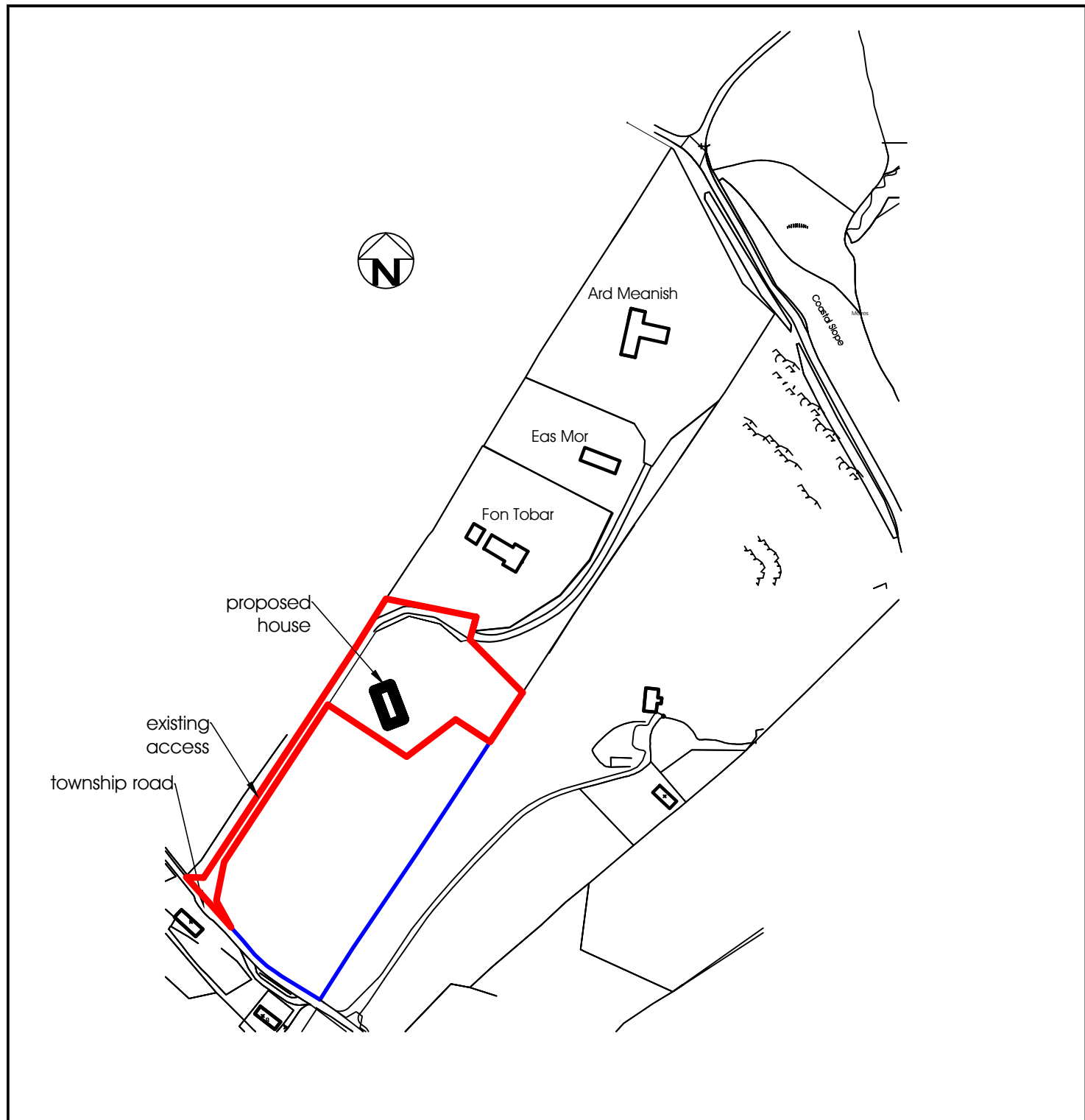
**The Highland Council**  
**Comhairle na Gàidhealtachd**

**Planning & Development Service**

**17/05293/FUL**

**Erection of earth sheltered house formation of access and installation of septic tank/soakaway at Land at 8 Lower Milovaig, Glendale**





Project:  
 Proposed new house at,  
 8 Lower Milovaig  
 Glendale,  
 Isle of Skye

A4

Drawing Title: LOCATION PLAN

Scale: 1:2500 on A4    Date: 10/11/2017    DRG NO. 1 of 4

**SKYE**   
**DESIGNS**

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Project:  
 Proposed new house at  
 8 Lower Milovaig  
 Glendale,  
 Isle of Skye

A1

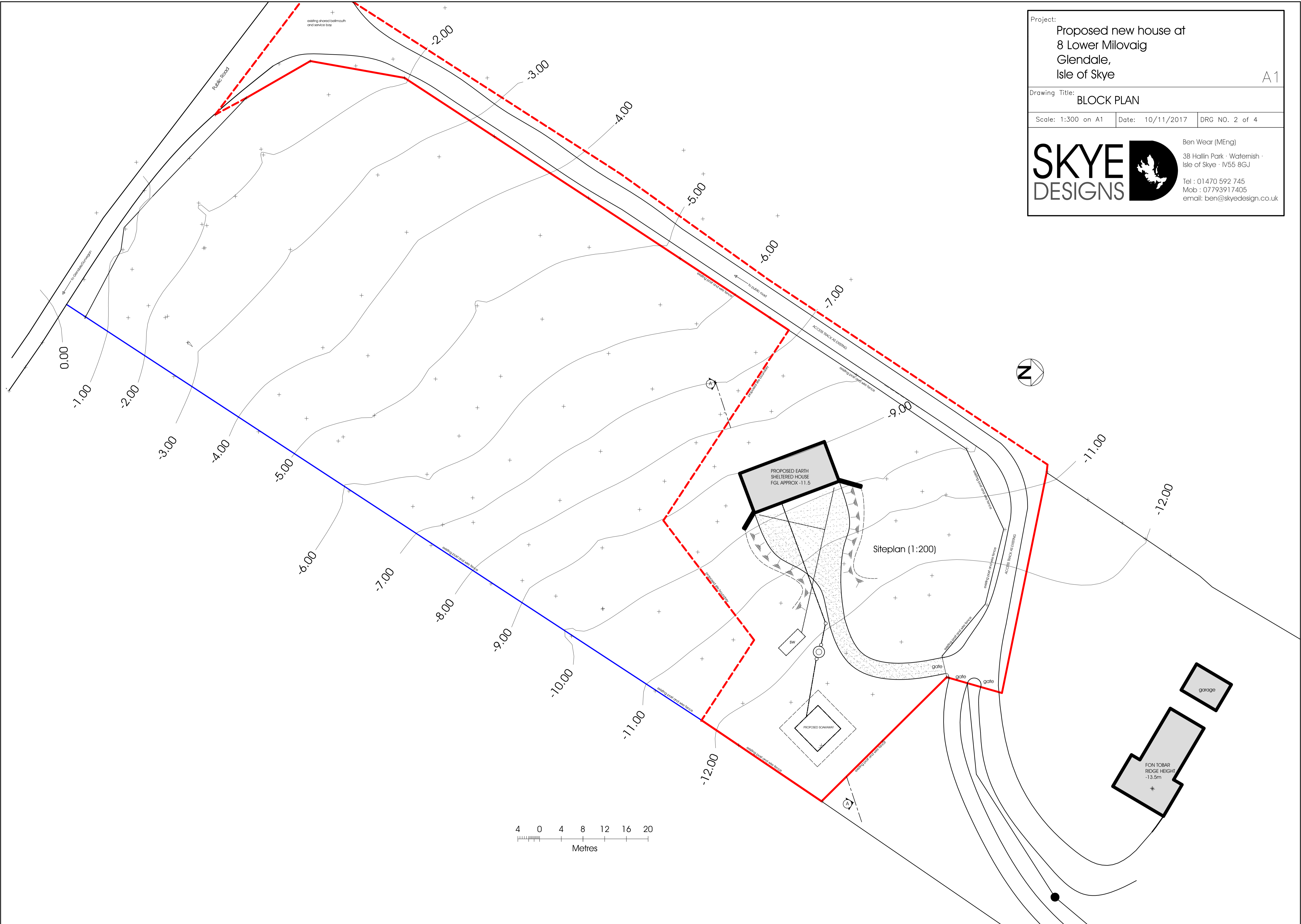
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 BLOCK PLAN

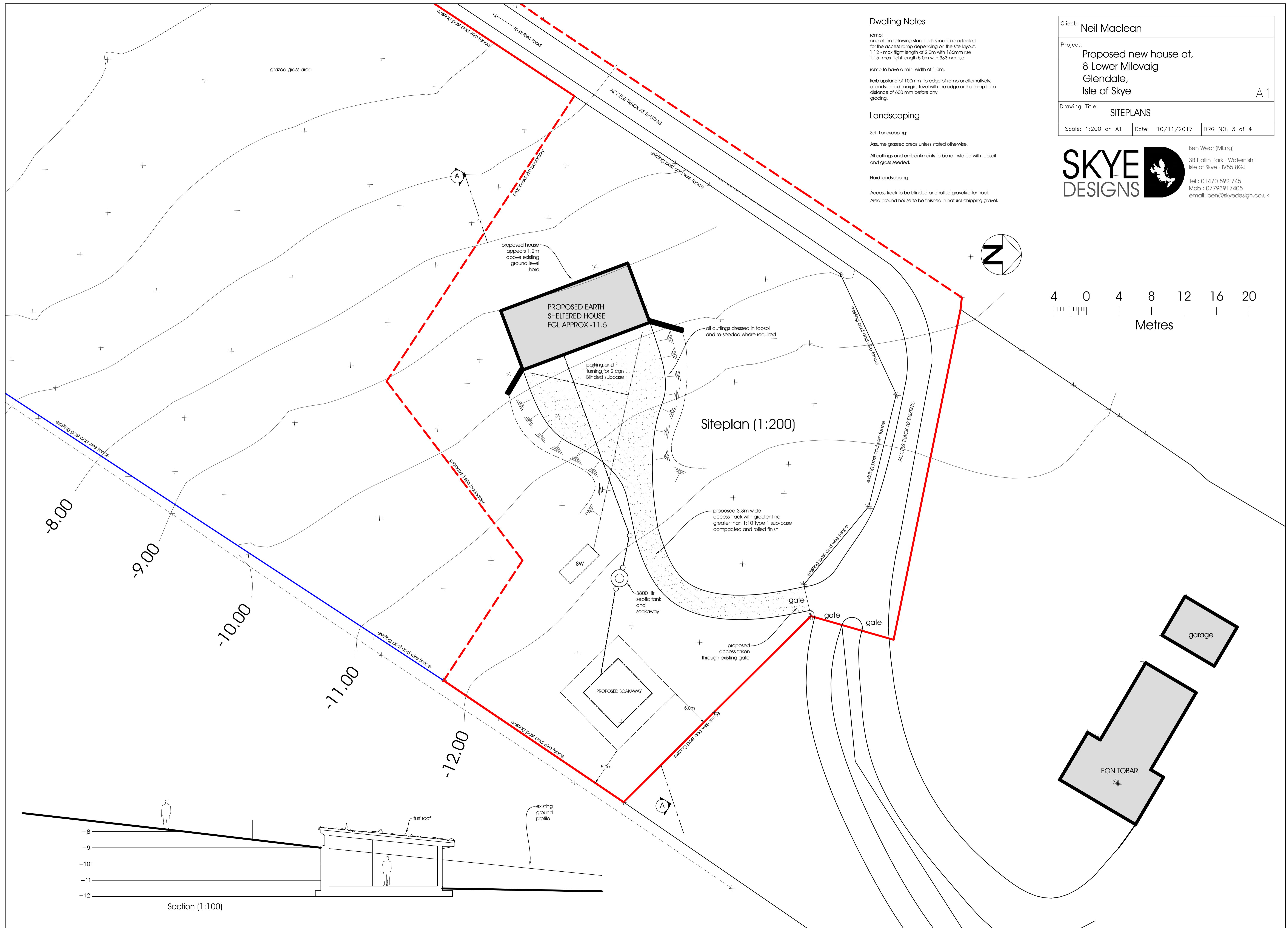
Scale: 1:300 on A1 | Date: 10/11/2017 | DRG NO. 2 of 4

**SKYE**  
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**Dwelling Notes**

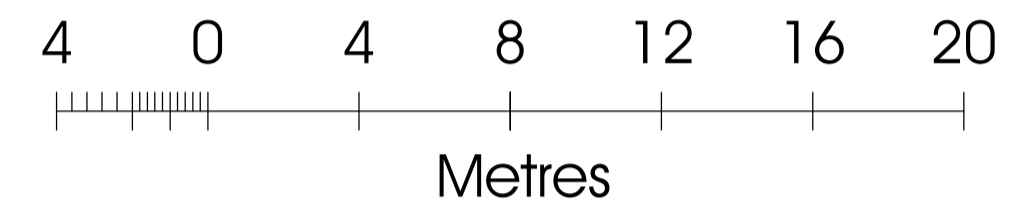
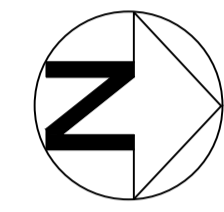
ramp: one of the following standards should be adopted for the access ramp depending on the site layout:  
 1:12 - max flight length of 2.0m with 166mm rise  
 1:15 - max flight length 5.0m with 333mm rise.  
 ramp to have a min. width of 1.0m.  
 kerb upstand of 100mm to edge of ramp or alternatively, a landscaped margin, level with the edge of the ramp for a distance of 600 mm before any grading.

**Landscaping**

Soft Landscaping:  
 Assume grassed areas unless stated otherwise.  
 All cuttings and embankments to be re-instated with topsoil and grass seeded.  
 Hard landscaping:  
 Access track to be blinded and rolled gravel/rotten rock  
 Area around house to be finished in natural chipping gravel.

Client: Neil Maclean		
Project: Proposed new house at, 8 Lower Millovaig, Glendale, Isle of Skye		
Drawing Title: SITEPLANS		
Scale: 1:200 on A1	Date: 10/11/2017	DRG NO. 3 of 4

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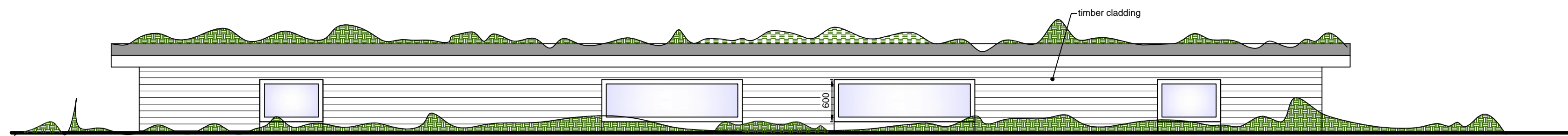
PROPOSED EARTH SHELTERED HOUSE  
 FGL APPROX -11.5

Siteplan (1:200)

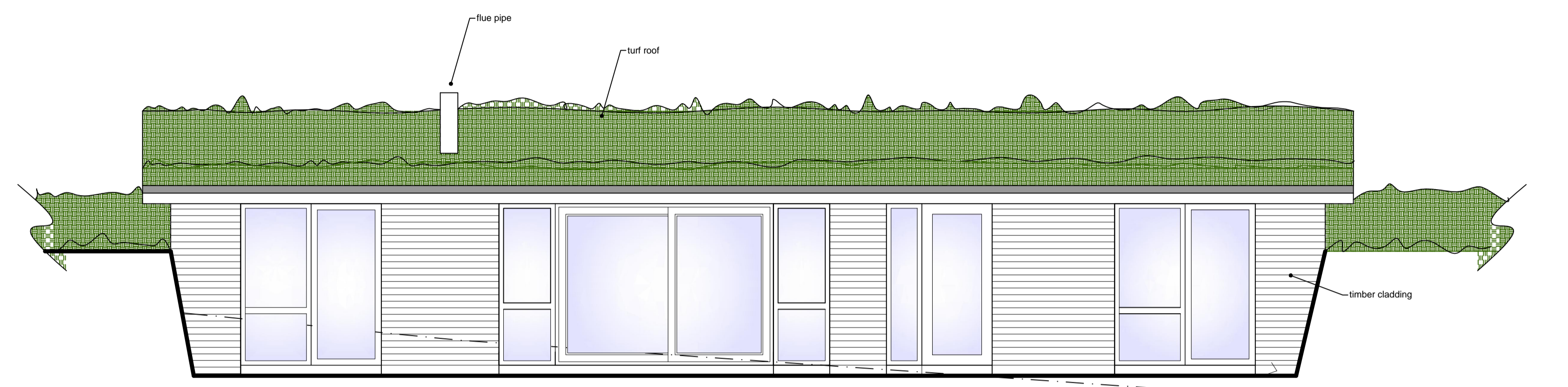
FON TOBAR

garage

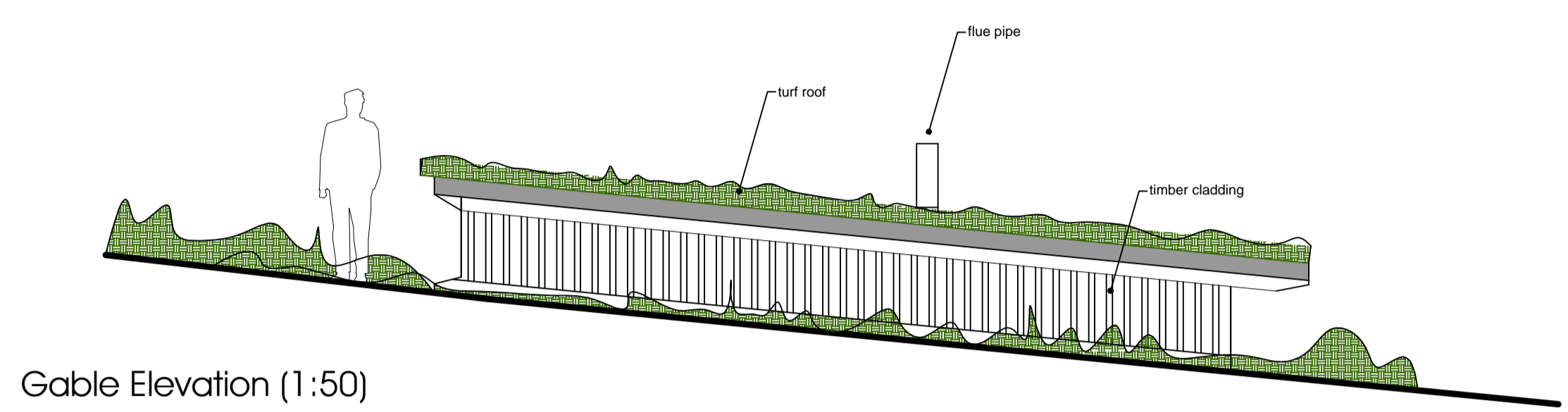
Section (1:100)



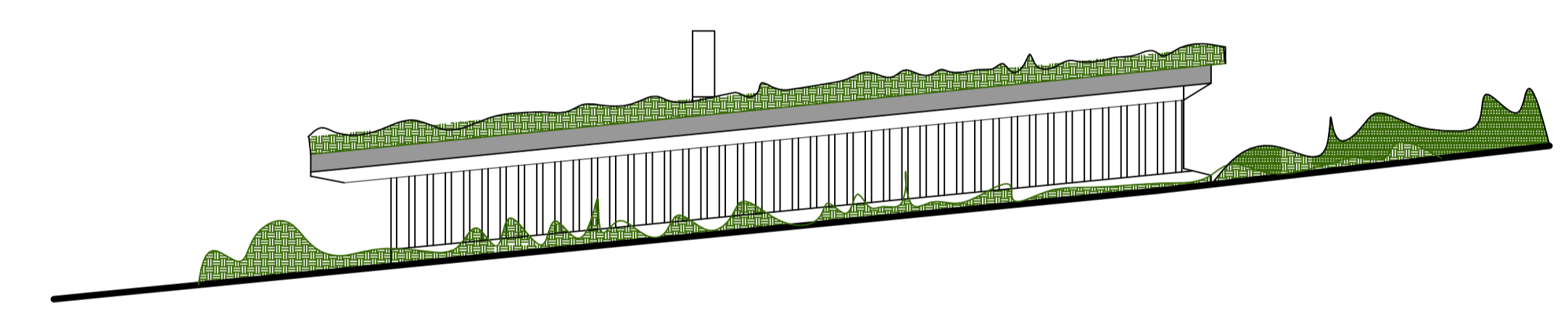
Rear Elevation (1:50)



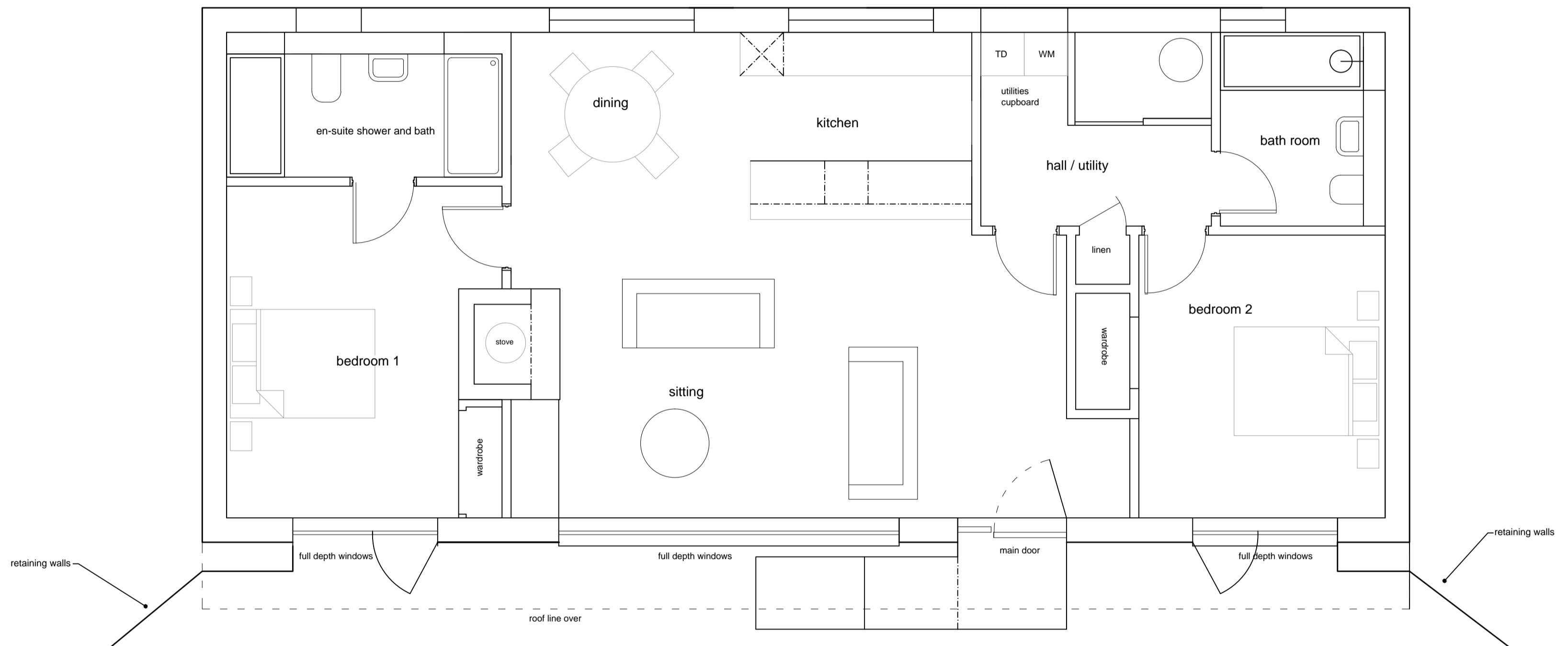
Front Elevation (1:50)



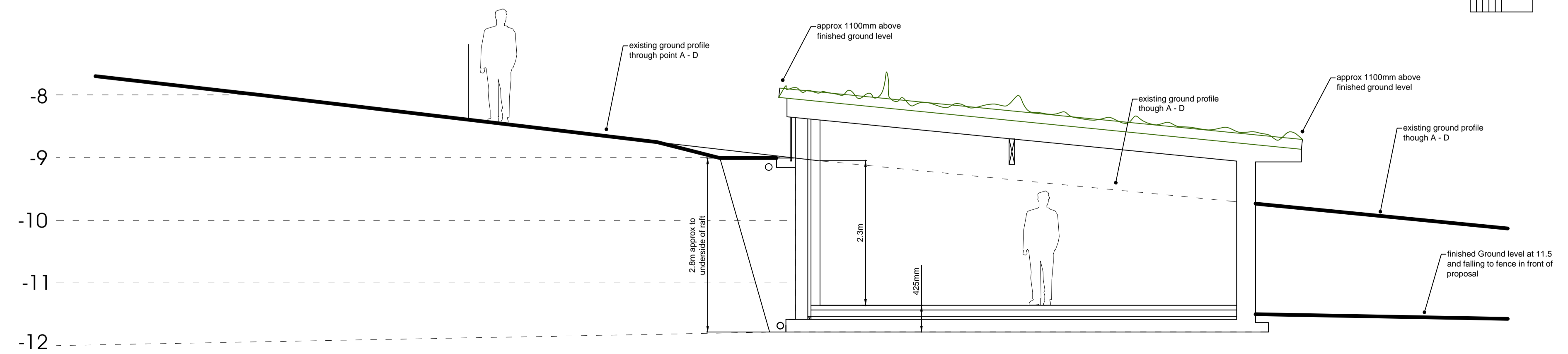
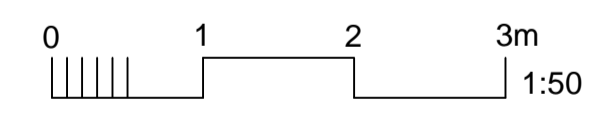
Gable Elevation (1:50)



Gable Elevation (1:50)



Floorplan (1:50)



Section (1:50)

REV B: 22/02/2017 Flue pipe added  
REV A: 10/11/2017

Client:	Neil Maclean	Date:	10/11/2017
Project:	Proposed New House 8 Lower Millovaig Glendale Isle of Skye	Rev:	B
Drawing Title:	Proposed Elevations, Floorplan and Section	Status:	PLANNING
Scale:	1:50	Drw No.:	4 of 4

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