

Agenda Item	6.3
Report No	PLN-068-22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 13 September 2022

Report Title: 22/01508/FUL: Mr Campbell Dickson
Wych Hazel, 3 East Park, Portree

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Change of use from house to House in Multiple Occupancy

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Number of 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.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks full planning permission for the change of use of the property from a class 9 residential use to a House of Multiple Occupancy (HMO) for accommodating 8 people.
- 1.2 The application proposes to utilise the existing on-site parking
- 1.3 Pre Application Consultation: None
- 1.4 Supporting Information: None
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site consists of an existing 5 bedroomed single storey detached house located at the end of a single track private road which serves three other houses. There are three parking spaces on the site along with a detached garage to the eastern side of the property.
- 2.2 The site is located on the outskirts of Portree in a residential area to the rear of the Cullin Hills Hotel.

3. PLANNING HISTORY

- 3.1 None Found

4. PUBLIC PARTICIPATION

- 4.1 Advertised: West Highland Free Press - Unknown Neighbour
Date Advertised: 11.04.22
Representation deadline: 29 April 2022
Timeous representations: 10 objections from 10 households
Late representations: None
- 4.2 Material considerations raised are summarised as follows:
- Overprovision of transient accommodation.
 - Cumulative impact
 - Lack of amenity space
 - Lack of parking
 - Impact on the private road
 - Lack of waste provision
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet

www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 Building Standards – No Objection subject to the building complying with all the required DDA standards.

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
33 - Houses in Multiple Occupation
34 - Settlement Development Areas

6.2 West Highland and Islands Local Development Plan (2019):

Portree is a main settlement with a settlement development area which has the following placemaking priorities:

- Encourage town centre expansion that respects the architectural, cultural and natural heritage of the conservation area, the Lump, other greenspaces and public vistas notably to the Cuillin mountains.
- Diversify the tourism offer of the historic, central part of the village, including land at Bayfield and the harbour.
- Consolidate the existing settlement area by promoting and supporting infill and redevelopment opportunities.
- Safeguard a route for the possibility of a longer term service access to the harbour from the A855 and around the south of the Lump.
- Safeguard land for a second phase of commercial and industrial expansion at Home Farm on the northern side of Portree.
- Preserve and extend Portree's green networks particularly its wooded river and burn sides.
- Completion of the Portree Link Road which will significantly enhance connectivity in the town and open up new housing and employment land for development.
- Improve public car parking and coach/bus drop-off provision within the village centre and encourage relocation of longer stay needs to more peripheral locations

6.3 Highland Council Supplementary Planning Policy Guidance

Access to Single Houses and Small Housing Developments (May 2011)
Houses in Multiple Occupation (March 2013)

7. OTHER MATERIAL CONSIDERATIONS

- 7.1 **Scottish Government Planning Policy and Guidance**
Scottish Planning Policy (as amended December 2020)
National Planning Framework 3
Designing Streets

Creating Places

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) cumulative impact
 - c) traffic and pedestrian safety
 - d) residential amenity
 - e) Impact on infrastructure and services and proposed mitigation (developer contributions)

Development plan/other planning policy

- 8.4 The property falls within the Settlement Development Area for Portree 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 33: Houses in Multiple Occupation (HMO) and associated adopted supplementary guidance recognises the important role of HMOs in Highland's housing system, providing affordable accommodation for those working and studying in the Highlands who are unable to buy their own property. This form of housing helps to support economic growth in the Highland area. Policy 33 and the associated supplementary guidance offers support for development which avoids negative impact (individually and cumulatively) to traffic or pedestrian safety, on account of increased parking pressures, for development which is located within close proximity to public transport connections, social and community facilities and where it will avoid negative impact on residential and/or business amenity both individually and cumulatively. Each proposal must not lead to excessive noise and disturbance, must provide adequate refuse storage space, garden ground and car/cycle parking and must avoid materially altering the character of the area.

8.5 Use as an HMO

A shared house is classified as an HMO requiring planning permission only when it proposes to accommodate 6 or more unrelated people. If the house accommodates 5 or less unrelated people, then it only requires an HMO license and no material change of use requiring planning permission is considered to have occurred.

Where relevant, the planning permission process can only take account of material planning issues and can make no assumptions about the potential behaviour of tenants. HMO licensing is undertaken in partnership with the Police and includes an assessment of the suitability of the property owner to be an HMO landlord (and the suitability of any agent of the owner), management of the premises and the physical condition and facilities of the accommodation. Licensing is usually issued for a period of up to 3 years and subject to renewal thereafter.

The Council's HMO Supplementary Guidance requires an assessment of individual and cumulative HMO use to safeguard neighbouring residential amenity, local character and services.

8.6 Cumulative Impact

This aspect is an important consideration with reference to the cumulative impact raised by a number of third parties.

The immediate area is made up of a small cul de sac of residential buildings. One of these properties is currently used as staff accommodation, one as a guest house and the rest are residential. However, this property would be the first in the street to require planning permission for use as an HMO (6 or more people in residence). Although, as mentioned above, there is another property used as staff accommodation, it does not meet the criteria for requiring a change of use through planning (it is occupied by 5 or less people) and is therefore only controlled through licensing legislation. Its likely amenity impacts are not considered (in planning terms) to be any greater than other family dwellings.

In these circumstances little material weight can be placed upon the argument of overprovision of HMO accommodation in the immediate area. The application needs to be considered on the basis of this individual property's impact upon neighbour amenity.

8.7 Access and Parking

Parking spaces on site are currently available within the garage and also within an area of hardstanding within the domestic curtilage. Parking is proposed for 4 vehicles on site. The parking has been proposed for 3 spaces across the front garden and 1 space within the garage.

The application is for up to 8 people all working for the same company and its village centre premises. The distance from the proposed HMO to the village centre is about 0.7 miles which equates to 15mins walking. The Highland Council's guidance identifies 30mins on foot and 40mins by bicycle as being the maximum distance that such modes are likely to be employed for regular travel to work. It seems reasonable therefore, when assessing the likely number of

vehicles needing to be parked at the property, to take into account the distinct likelihood of shared car use and the fact that walking and cycling are also viable options. In the light of this it is considered that the 4 space provision is adequate.

The space proposed for the frontage parking currently measure 6.8m between the existing fencing and is already an area of hard standing. As shown on the site layout plan, this space and the hardstanding would be required to be widened slightly to 7.5m to be able to accommodate 3 standard parking spaces. Given that there is around 12m between the neighbouring fence and the building, it is considered that there is more than enough room to allow for these spaces to be enlarged to provide additional parking.

The road accessing the property is a private road which joins the public road down by the Cuillin Hills hotel carpark. Parts of this road are in a poor state of repair with the tarred surface worn away down to a gravelled finish which has been made worse by recent forestry operations being carried out in the adjacent woodland.

It is agreed that the creation of an HMO in the area would marginally increase the amount of traffic using the section of private road compared to that generated by a family dwelling. However, given the existing condition of the road it is considered to be unreasonable to require the applicant to repair or upgrade the current condition of the road. As with any private road, repairs to the road need to be a joint undertaking between all users/owners of the road going forward. It appears such a level of agreement does not currently exist, and it is considered inequitable to require the applicant to shoulder the whole of this long-term liability.

Equally, the level of vehicle movements associated with such a use is not considered likely to make a material impact upon the safety of other road users including pedestrians.

8.8 Amenity

The property is a single storey detached building with garden ground on three sides. Given this fact it is considered that there will be ample amenity space associated with the property for the use of up to 8 residents as proposed.

The submitted objections mention the possibility of noise and disturbances caused from the additional occupants of the property. Although it is recognised that an 8 person HMO is likely to contain a larger number of adults than a commensurate family dwelling and that this could result in an increased level of human activity, it is not considered that there is any evidence from other such premises that this automatically results in harmful noise and disturbance. Again, it must be stressed that the planning authority cannot speculate about the potential behaviour of tenants as a material planning consideration.

The property faces the side elevation and side entrance of the property 'Glaslyn' to the south-east at a distance of about 25m. Given this orientation and distance it is not considered that the amenity of Glaslyn will be unacceptably affected by the comings and goings of the HMO. There is landscaping already in place between the two properties that will assist with the protection of the amenity of the neighbouring property from the parking area. This area however is an existing parking area for the residential house. It is not considered that the proposed use would create additional impact from the parking of vehicles or that obstruction of

the access to 'Glaslyn' would result.

Environmental Health officers have confirmed that the licensed HMO property next door to this site has not generated any noise or other complaints.

Waste provision in the site is the responsibility of the property owner who must ensure that adequate refuse bins are provided and that the bins are placed within the collection points at the end of the private road at the correct times.

The use of the property for use as a HMO will require a BuildingWarrant.

Other material considerations

8.9 None

Non-material considerations

8.10 The following issues are not a material planning consideration.

- Insufficient facilities within the house – covered by licensing/building standards
- Legal requirement in title deeds
- Potential for anti-social behaviour
- The current condition of the house – covered by licensing/building standards

9. CONCLUSION

9.1 The site would be the first HMO requiring planning permission within this area with any other only being controlled by licensing. The property is considered to have adequate parking and amenity space for the proposed occupants of the house without causing any additional adverse impact on neighbouring residential properties.

9.2 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. 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 **GRANT** the application subject to the following conditions and reasons

1 No occupation of the building as an HMO shall take place unless a revised parking layout plan has been submitted to and approved in writing by the planning authority. The submitted plan shall be drawn to a scale of no less than 1:100 and shall show three fully-dimensioned rectangular parking spaces of a minimum of 5m x 2.5m on the front garden area in addition to a fourth space in the existing garage. The plan should be annotated with details of the enabling works to achieve the above.

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

2 The maximum number of individuals resident in the property subject of this application shall not exceed 8 persons at any time

Reason: In accordance with the details submitted with the application and in the interests of neighbour amenity

3 The garage identified for parking in the application details shall be maintained free from obstruction and available for vehicular parking use at all times

Reason: In the interests of neighbour amenity

REASON FOR DECISION

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.

TIME 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.

INFORMATIVES

Initiation and Completion Notices

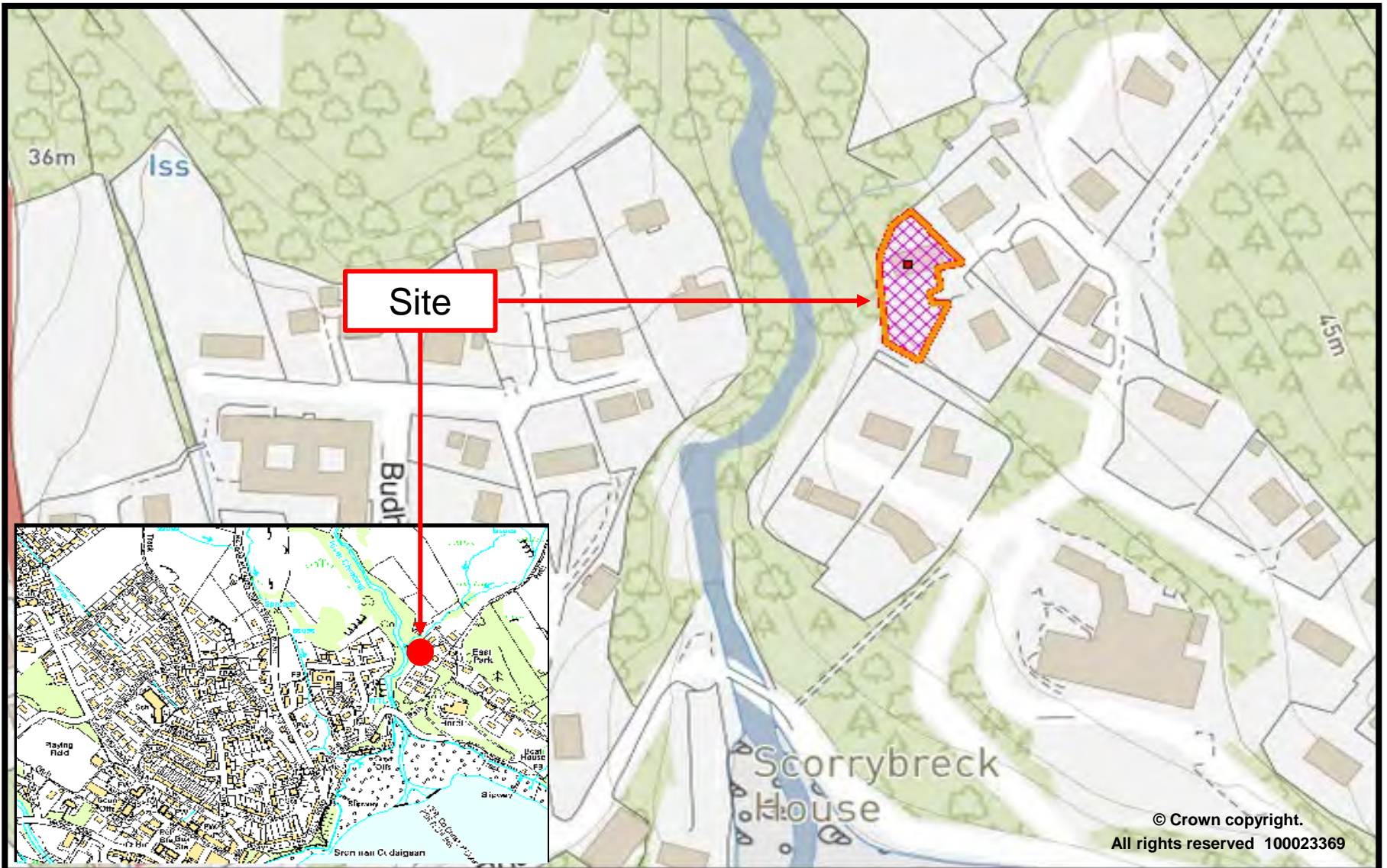
The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply 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.

Signature: Dafydd Jones
Designation: Area Planning Manager North
Author: Chris Hallas
Background Papers: Documents referred to in report and in case file.
Relevant Plans:

Document Type	Document No.	Version No.	Date Received
Location plan	000001		28.03.22
Floor Plan	000002		28.03.22



The Highland Council
Comhairle na Gàidhealtachd

Planning and Development Service

Location Plan
 22/01508/FUL

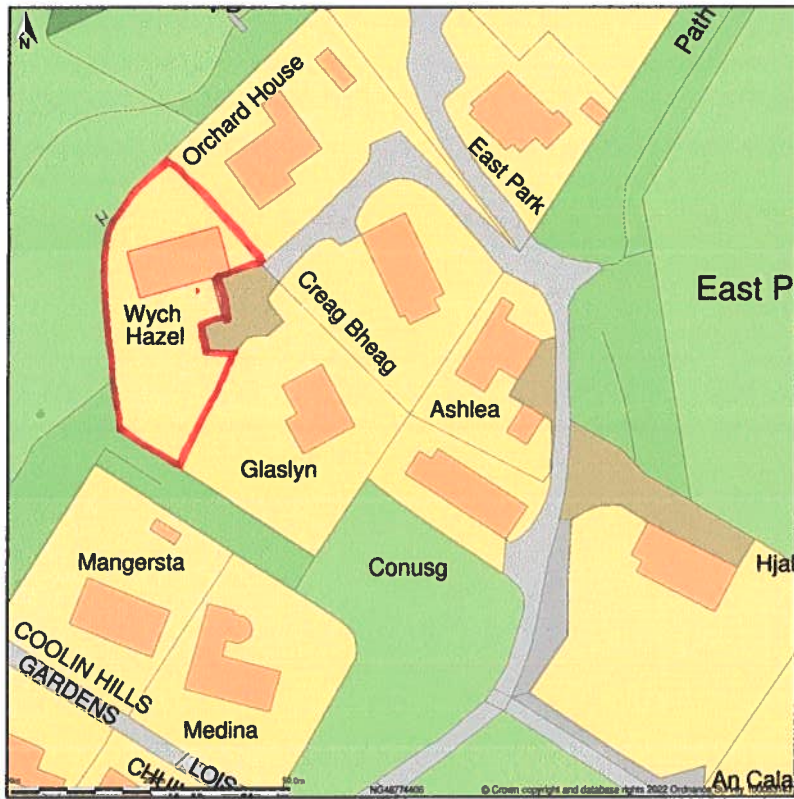
Change of use from house to HMO

August 2022



Scale:

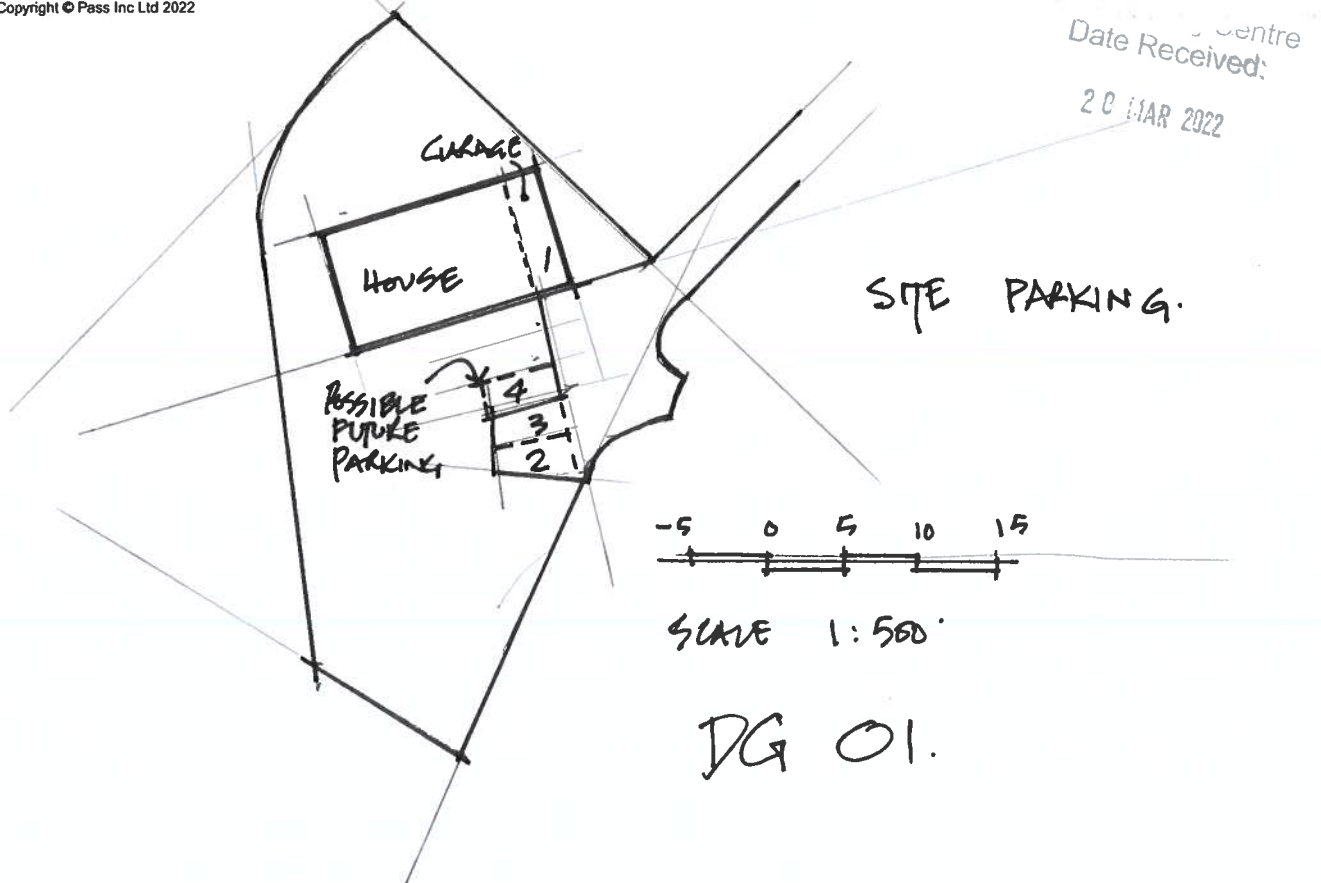
Wych Hazel, 3, East Park, Portree, Highland, IV51 9NW



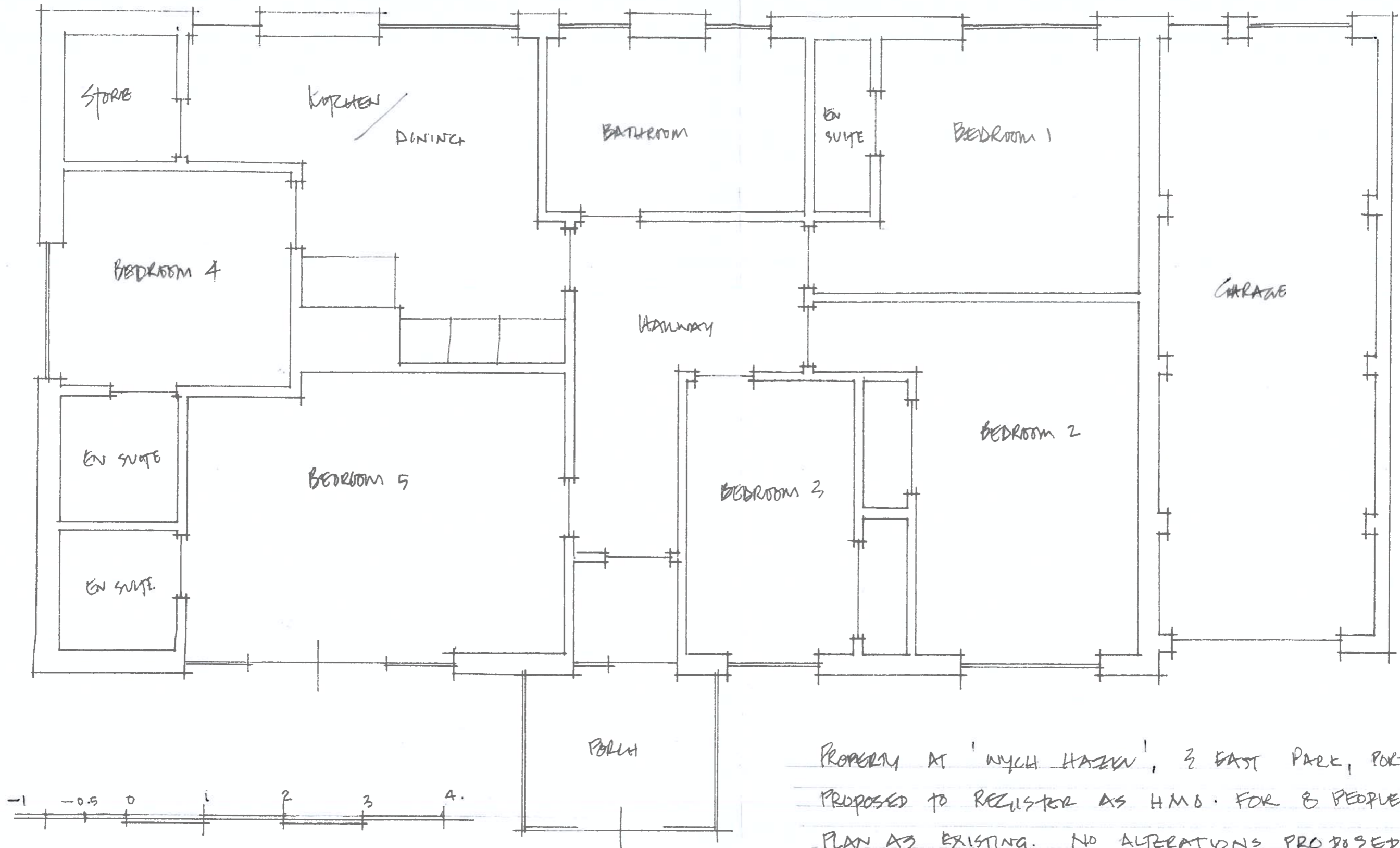
Location Plan shows area bounded by: 148700.26, 843990.75 148841.68, 844132.17 (at a scale of 1:1250), OSGridRef: NG48774406. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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The eProcessing Centre
Date Received:
20 MAR 2022



PROPERTY AT 'WYCH HAZEL', 3 EAST PARK, PORTREE
PROPOSED TO REGISTER AS HMO. FOR 8 PEOPLE MAX.
PLAN AS EXISTING. NO ALTERATIONS PROPOSED
MARCH 2022. SCALE 1:50. PG. NO.

DG. 02.