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| Agenda Item | 6.10 |
| Report No | PLN/036/26 |

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 10 June 2026

Report Title: 26/00095/FUL: Mr Nick Plank
Land 70m West of Fon Tobar
8 Lower Milovaig
Glendale
Isle of Skye

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Erection of a deer fence (retrospective)

Ward: 10 – Eilean a Cheò

Development category: Local Development

Reason referred to Committee: Eight objections from 6 households

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 applicant seeks retrospective permission for the erection of a deer fence that encloses a roughly rectangular area of open ground which lies between the upper and lower sections of the U4796 Milovaig loop road.

The fence is roughly 840m in length with timber posts some 2.25m high which are spaced around 2.8m apart. A galvanised steel wire square mesh is strung between these posts which has an opening size of 17.5cm. There is a 1.5m high vehicular access gate at the south west corner of the fence and a smaller 2.0m high pedestrian gate at the north eastern corner. The southern section of the fence is set back some 24m from the upper section of the U4796, while its northern section adjoins the verge of this road, and is setback some 2m for the tarmac edge. Planning permission is required in this instance as the sections of the fence which face the public road are in excess of 1m in height. Members of the public had reported this fact, and this led to investigation by the enforcement team which has resulted in the submission of this retrospective application.

- 1.2 The site has no existing infrastructure, with no existing access on to the public road.

- 1.3 Pre Application Consultation: None

- 1.4 Supporting Information: The applicant has submitted a response to the representations which have been received.

- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site comprises an area of open, uncultivated croft land. The northern end of the site adjoins the lower section of the U4796 loop road and lies some 130m south west of the Meanish Pier. The opposite, southern end of the site is set back some 24m from the upper part of this road. Existing houses lie to the east, south and west of the site, the closest of these being 23m to the south west on the other side of the township road (Tighan Fhithich, 10 Lower Milovaig) and 25m to the east (Fon Tobar, 8 Lower Milovaig). The site lies within the North West Skye Special Landscape Area.

3. PLANNING HISTORY

- | | | | |
|-----|------------------|---|--------------------|
| 3.1 | 8 February 2021 | 20/04857/PIP, Erection of house, formation of access and installation of treatment tank and soakaway. | PERMISSION GRANTED |
| 3.2 | 10 November 2020 | 17/04537/PIP, Erection of house, formation of access and installation of treatment tank and soakaway. | PERMISSION GRANTED |

4. PUBLIC PARTICIPATION

- 4.1 Advertised: West Highland Free Press – Unknown Neighbour
Date Advertised: 20 March 2026
Representation deadline: 4 April 2026

Timeous representations: 8 (6 Households)

Late representations: 0

4.2 Material considerations raised are summarised as follows:

- a) Visually intrusive form of development which is not in keeping with traditional boundary treatments and which fails to respect the established character of the landscape.

Officer comment: It is not considered that the subject fence adversely affects the character of the local landscape. The posts are made of a visually recessive natural material, are not so thick that they appear intrusive, and the galvanised wire mesh is also visually recessive. In overall terms it is considered that the fence is visually permeable. It is noted that there are other similar deer fences in Milovaig. As such, the subject fence cannot be considered an unusual or incongruous feature within the existing landscape context. It appears likely that the other fences have been in existence for over 10 years and as such are lawful.

- b) No need for the development.

Officer comment: It is considered that where appropriate a deer fence is something which can be considered necessary for the cultivation of land. The applicant has stated their intention to plant the land with trees.

- c) The proximity of the fence to the road may give rise to road safety concerns.

Officer comment: The only section of the fence which is close to the public road is its northern section. The subject fence has replaced a previous 1m high post and wire fence along this part of the road verge. The increased height has no effect on the achievable visibility from the nearest planned or existing site access junction off the U4796. This junction lies some 50m west of the nearest part of the subject fence, but has uninterrupted visibility along a straight section of the public road for at least 70m, which is considered sufficient in relation to the low traffic speeds and volumes on this stretch of narrow single track road.

- d) The application appears to include land not within the applicant's ownership, specifically a private driveway.

Officer comment: The applicant has certified that they own all of the land within the application site boundary. Any disputes over land ownership would be a civil matter between the involved parties, is not within the remit of the Planning System to consider and is therefore not a matter for this assessment.

- e) Waste fencing materials have been left on site.

Officer comment: A small amount of left over fencing material was seen during the site visit. It is not considered that this represents a reason to refuse planning permission.

- f) The fence gates have been padlocked, preventing public access.

Officer comment: This is addressed below. Access rights are controlled by separate legislation.

- g) Any award of planning consent to a retrospective application would effectively reward non-compliance and diminish public confidence in proper planning procedures.

Officer comment: The procedures which are established by current planning legislation and guidance allow for the approval of retrospective planning applications where appropriate.

h) Adverse impact on biodiversity.

Officer comment: The prevention of grazing by deer is generally accepted to improve biodiversity.

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <https://www.highland.gov.uk/planning/view-comment-planning-applications>.

5. CONSULTATIONS

- 5.1 Enforcement Team: No Response, but the position shall be reviewed following determination of the subject application in line with the Council's Enforcement Charter.
- 5.2 Access Officer: No objection, welcomes the inclusion of access gates but seeks a condition which ensures that public access through the site is available at all times.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4 (2023) (NPF4)

Policy 1 - Tackling the Climate and Nature Crises
Policy 2 - Climate Mitigation and Adaptation
Policy 3 - Biodiversity
Policy 4 - Natural Places
Policy 14 - Design Quality and Place

6.2 Highland Wide Local Development Plan 2012 (HwLDP)

28 - Sustainable Design
29 - Design Quality and Place-making
31 - Developer Contributions
36 - Development in the Wider Countryside
49 - Coastal Development
57 - Natural, Built and Cultural Heritage
61 - Landscape
77 - Public Access

6.3 West Highland and Islands Local Development Plan (2019) (WestPlan)

North West Skye Special Landscape Area
No site specific policies apply.

6.4 Highland Council Supplementary Planning Policy Guidance

Developer Contributions (March 2018)
Biodiversity Enhancement Planning Guidance (May 2024)
Special Landscape Area Citations (June 2011)

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 None

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) siting, design and landscape impact
- c) public access
- d) road safety
- e) any other material considerations

a) Development plan/other planning policy

8.4 All planning applications must now be determined in accordance with the provisions of NPF 4 and the existing Local Development Plan, unless material considerations provide justification otherwise. If there is an inconsistency between NPF4 policies and an LDP which was adopted before 13 February 2023, the NPF prevails under Section 24(3) of the 1997 Town and Country Planning (Scotland) Act 1997 (as amended). In this case NPF 4 takes precedence over HwLDP Policy 36.

8.5 NPF4 forms part of the Development Plan and Policies 1-3 apply to all development proposals throughout Scotland. When considering development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

8.6 NPF4 Policy 4d states that development proposals which affect a site designated as a Landscape Area in the Local Development Plan will only be supported where development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified.

- 8.7 NPF4 Policy 14 states that development proposals will be designed to improve the quality of an area whether in urban or rural locations, regardless of scale and sets out that development proposals that are poorly designed, or detrimental to the amenity of the surrounding area will not be supported.
- 8.8 In this case the Development Plan is also comprised of the WestPlan (although this has no site-specific policies of relevance to this application) and the HwLDP, the relevant policies of which focus on siting, design and public access (policies 28, 29, 36 and 77) and on landscape impact (policies 36, 57 and 61). Finally, Policy 49 relates to coastal development. This policy promotes the landward side of the road for development where proposals on the coastal side would interrupt scenic views over open water, unless a coastal position is necessary.
- 8.9 The existing development plan policies provide a framework against which to assess the extent to which the proposal is suitable in terms of siting, visual amenity, landscape impact and public access. It is considered that the proposed development is aligned with the relevant policy objectives of NPF4 and the LDP for the reasons set out below.

b) Siting, design and landscape impact

- 8.10 As noted above, similar deer fences have been sited in the local area and elsewhere in Skye. As such, the subject proposal does not appear as an unusual feature within the local landscape setting. It is considered that the fence is a visually permeable feature due to the recessive materials used, namely natural timber posts and a galvanised wire large aperture mesh. While the fence is on the seaward side of the Milovaig loop road's upper section it is not considered that it interrupts scenic views over open water on the basis that it is visually permeable. In addition, a coastal position is considered necessary in this case to prevent deer grazing on the subject site which is croft land. Given these positive siting and design considerations it can be concluded that the subject fence has been easily assimilated into the local landscape setting without adversely affecting the qualities of the Special Landscape Area.

c) Public Access

- 8.11 The Access Officer has welcomed the inclusion of gates at the southern and northern sections of the fence which facilitate public access. Objectors have noted that these gates are locked. The applicant has stated that the gates are unlocked and available for access and that there is no intention to restrict public access. They add that any previous perception of restricted access (e.g. for temporary security during installation) has been resolved. Although the access officer has requested a planning condition to secure public access this is not an aspect that can be addressed directly through the use of a planning condition in this instance. The issue of mainlining public access is dealt with under separate legislation and the concerns of the access officers to ensure public access is maintained will be addressed through an informative.

d) Road Safety

- 8.12 Only the southern and northern sections of the fence are adjacent to the U4796. The southern section is set back some 24m from this road and as such is well clear of any visibility splays associated with nearby existing access junctions onto this road. While the northern section of the fence is only set back some 2m from the tarmac edge of the road it follows the line of a previous fence which did not interrupt the available satisfactory visibility of some 70m looking east towards the fence from the nearest existing site access to the west. The increased height of the subject fence does not affect this available visibility on the basis that it is no closer to the public road than the previous fence.

Other material considerations

- 8.13 There are no other material considerations.

Non-material considerations

- 8.14 The issue of whether or not the applicant is a permanent resident of the area is not a material planning consideration.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.15 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:
- a) None

9. CONCLUSION

- 9.1 The deer fence which is the subject of this retrospective application is considered acceptable in terms of its siting, design and landscape impact on the basis that it is necessary in this particular location to prevent the grazing of deer on croft land, is not an unusual or incongruous feature within the local landscape setting and does not adversely impact public scenic views over open water due to its visual permeability. There are no adverse road safety implications due to the fence not interrupting the only existing or consented visibility splay in its vicinity.
- 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 N

Notification to Scottish Ministers N

Conclusion of Section 75 Obligation N

Revocation of previous permission N

Subject to the above actions, it is recommended to **APPROVE** the application.

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.

INFORMATIVES

Flood Risk

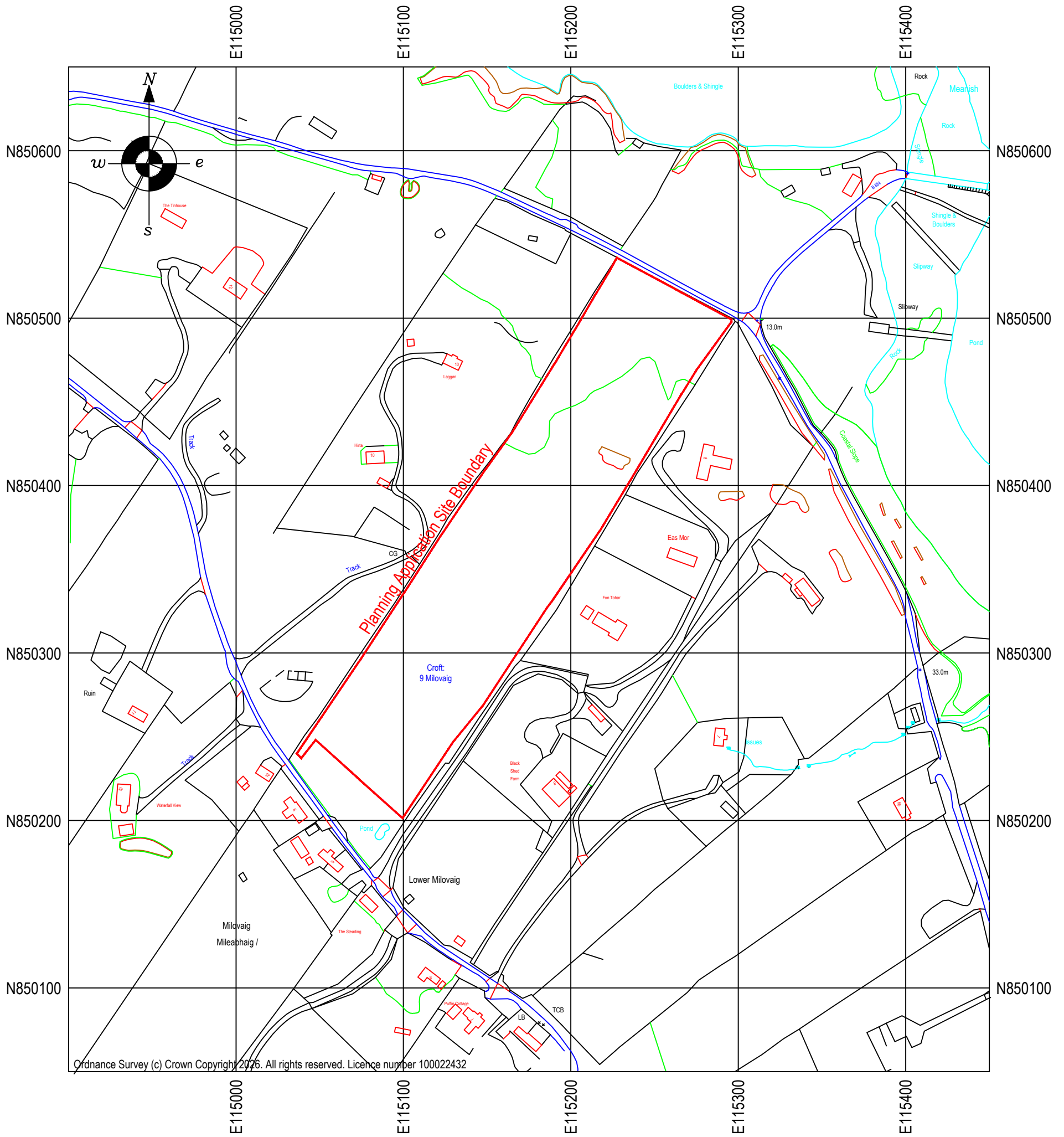
It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Public access

Public access shall be maintained at all times and all gates shall remain unlocked in order to ensure compliance with the requirements of the Land Reform (Scotland) Act 2003

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

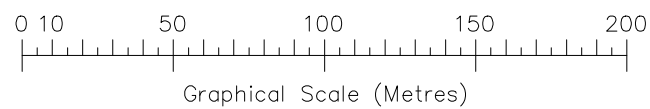
| Document Type | Document No. | Version No. | Date Received |
|-----------------|--------------|-------------|------------------|
| Topography Plan | 00001 | | 9 January 2026 |
| Location Plan | 25/209/02 | | 16 February 2026 |
| Fencing Plan | 25/209/02 | | 16 February 2026 |



Site Location Plan

Scale 1:2500 @ A3

Site Centred Co-ordinates N.G.R. NG 115166, 850369



MCS *MACIVER*
CONSULTANCY
SERVICES

2A STEINISH
STORNOWAY
HS2 0AA
TEL (01851) 704703
EMAIL malcolm@maciverconsultancy.com

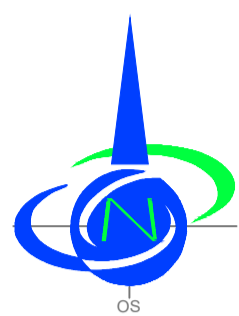
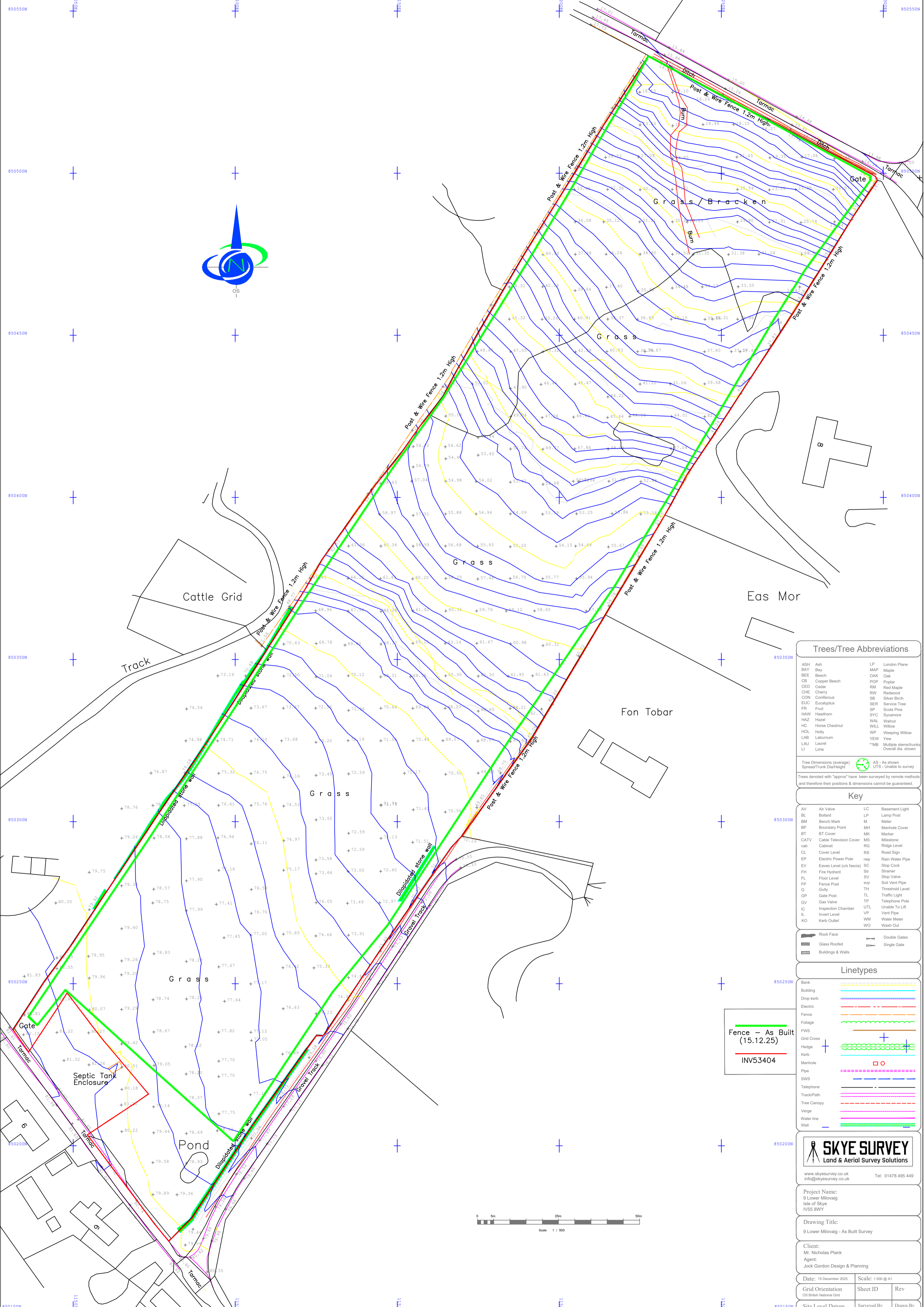
| REV. | REVISION NOTE | DATE | INITIALS |
|------|---------------|------|----------|
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| | | | |

SCHEME : **9 LOWER MILOVAIG**
Glendale, Isle of Skye IV55 8WR

SCALE(S) : **1:2500 @ A3**
DATE : **JANUARY 2026**
DRAWN : **ERL**
CHECKED : **SMI**

TITLE : **SITE LOCATION PLAN**

DRAWING NO. : **25/209/02 PLANNING A**



Trees/Tree Abbreviations

| | | | |
|-----|----------------|--------------------|----------------------|
| ASH | Ash | LP | London Plane |
| BAY | Bay | MAP | Maple |
| BEE | Beech | OAK | Oak |
| CB | Copper Beech | POP | Poplar |
| CED | Cedar | RM | Red Maple |
| CHE | Cherry | RW | Redwood |
| CON | Coniferous | SB | Silver Birch |
| EUC | Eucalyptus | SER | Service Tree |
| FR | Fruit | SP | Scots Pine |
| HAW | Hawthorn | SYC | Sycamore |
| HAZ | Hazel | WAL | Walnut |
| HC | Horse Chestnut | WILL | Willow |
| HOL | Holly | WP | Weeping Willow |
| LAB | Laburnum | YEW | Yew |
| LAU | Laurel | **MB | Multiple stems/trunk |
| LI | Lime | Overall dia. shown | |

Tree Dimensions (average) AS - As shown
 Spread/Trunk Dia/Height UTIS - Unable to survey
 Trees denoted with "approx" have been surveyed by remote methods and therefore their positions & dimensions cannot be guaranteed.

Key

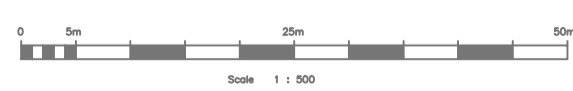
| | | | |
|------|--------------------------|-----|-----------------|
| AV | Air Valve | LC | Basement Light |
| BL | Bollard | LP | Lamp Post |
| BM | Bench Mark | M | Meter |
| BP | Boundary Point | MH | Manhole Cover |
| BT | BT Cover | MK | Marker |
| CATV | Cable Television Cover | MS | Milestone |
| cab | Cabinet | RG | Ridge Level |
| CL | Cover Level | RS | Road Sign |
| EP | Electric Power Pole | rwp | Rain Water Pipe |
| EV | Eaves Level (ufe fascia) | SC | Stop Cock |
| FH | Fire Hydrant | Str | Strainer |
| FL | Floor Level | SV | Stop Valve |
| FP | Fence Post | svp | Soil Vent Pipe |
| G | Gully | TH | Threshold Level |
| GP | Gate Post | TL | Traffic Light |
| GV | Gas Valve | TP | Telephone Pole |
| IC | Inspection Chamber | UTL | Unable To Lift |
| IL | Invert Level | VP | Vent Pipe |
| KO | Kerb Outlet | WM | Water Meter |
| | | WO | Wash Out |

| | | | |
|--|-------------------|--|--------------|
| | Rock Face | | Double Gates |
| | Glass Roofed | | Single Gate |
| | Buildings & Walls | | |

Linetypes

| | | | |
|--|------------|--|-------------|
| | Bank | | Drop kerb |
| | Electric | | Fence |
| | Foliage | | FWS |
| | Grid Cross | | Kerb |
| | Manhole | | Pipe |
| | SWS | | Telephone |
| | Track/Path | | Tree Canopy |
| | Verge | | Water line |
| | Wall | | |

Fence - As Built (15.12.25)
 INV53404



www.skysurvey.co.uk info@skysurvey.co.uk Tel: 01478 495 449

Project Name:
 9 Lower Milovag
 Isle of Skye
 IV55 8WY

Drawing Title:
 9 Lower Milovag - As Built Survey

Client:
 Mr. Nicholas Plank
 Agent:
 Jock Gordon Design & Planning

| | |
|--------------------------|-------------------|
| Date: 15 December 2025 | Scale: 1:500 @ A1 |
| Grid Orientation | Sheet ID |
| OS British National Grid | Rev |

Site Level Datum: OS Datum Newlyn
 Surveyed By: TL
 Drawn By: TL