

THE HIGHLAND COUNCIL

**NORTH AREA PLANNING APPLICATIONS COMMITTEE
– 21 MAY 2013**

Agenda Item	6.1
Report No	PLN/047/13

**11/04245/PIP : Mr Martin MacPhee
Land West Of 26, Geary, Hallin, Dunvegan**

Report by Area Planning Manager

SUMMARY

Description : Erection of dwelling house.

Recommendation - GRANT

Ward : 11 - Eilean A' Cheò

Development category : Local Development

Pre-determination hearing : n/a

Reason referred to Committee : Number of objections received.

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks planning permission in principle for the erection of a single dwelling on the rising croftland to the west, or landward, side of the Geary settlement road.
- 1.2 Pre-application advice for a residential proposal for two houses on this land was provided in 2008. Qualified support for a property in the proposed location was given, but the applicant was advised against a second development further back from the road and up the hillside as this was seen to run counter to the established linear settlement pattern.
- 1.3 The application proposes a new access where the site extends down to the settlement road and connection to the public water supply. The application states that a soakaway arrangement is to be used for foul drainage and a SUDS compliant system for surface water. No further details are provided at this stage.
- 1.4 Some visual information has been provided to show an indicative design and scale of the proposed dwelling
- 1.5 **Variations:** The application has been amended in response to neighbour concerns about boundary inaccuracy and the case officer's requirement for greater clarity about the siting of the dwelling in respect to neighbouring amenity.

In response to this, although after an extended period of delay, the applicant was

able to submit a fresh site plan with the correct boundaries shown, a northern site boundary drawn back from behind 26 Geary and an indicative position for the proposed house.

2. SITE DESCRIPTION

2.1 The proposed site is L-shaped, with one element stretching down to the road frontage adjacent to the boundary with the southern neighbouring property – 25 Geary – and land in the ownership of the neighbouring property to the north – 26 Geary.

The other element of the L-shaped site extends back to a line about 55 metres from the road frontage and about 40 metres north from the southern boundary, such that it wraps around the land owned by 26 Geary and ends just behind the southern extension to that property.

The amended plan shows a proposed house position about equidistant from the two neighbouring properties but set back some 30-35 metres back from the road. This is further back and on higher land than the two neighbouring properties which are on a line about 15-20 metres back from the road frontage. This house position equates with a narrow shelf in the rising land form.

3. PLANNING HISTORY

3.1 None

4. PUBLIC PARTICIPATION

4.1 Advertised : Advertised because of an unknown neighbour on 26 March 2012. Notification to neighbours on 23 March 2012 and then again, in respect of the amended scheme, on 16 April 2013.

Representation deadline : Overall deadline for representations – 9 May 2013

Timeous representations : Original notification: 6 representations from 6 addresses (5 objections, 1 neutral)

Re-notification: 6 representations from 6 addresses (6 objections)

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Set-back position of house destroys the linear settlement pattern of Geary which is part of Geary's unique post-clearance history
- Would set a precedent for a second tier of development higher up the hillside
- Would destroy the privacy of 26 Geary due to overlooking of the new (and un-shown) southern extension and a bedroom dormer window to the rear
- A new building could exacerbate historical surface water drainage and flooding issues on this land

- House should not be positioned in such a way as to look into 25 Geary
- Land should be retained as croft land for agricultural use
- The land forms a historical access up to the higher grazing land behind and this should be retained
- Could also affect the amenity and privacy of 27 Geary
- Soakaway position could cause problems for neighbouring property and should be addressed
- Substantial excavation into the hillside or an artificial raised platform would be required for this development – both would be unsightly.
- Any house should be of a traditional form and style to match those around it
- Construction works could disturb occupants of neighbouring property.

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. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 None

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 47	Safeguarding Inbye/Appportioned Croftland
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

6.2 West Highland and Islands Local Plan 2010 – as continued in force April 2012

Policy 1	Settlement Development Areas
Policy 2	Development Objectives and Developer Requirements

7. OTHER MATERIAL CONSIDERATIONS

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

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 outwith any 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 developments to respect the landscape character of their surroundings.

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

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

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 – Given that this application is for planning permission in principle only and no specific design detail has been provided, the critical consideration in terms of design and visual impact is that of siting.

It is considered that the indicative siting, equidistant from the neighbouring properties to the north and south and positioned on a small shelf to the rear of

those properties, is the only practical option for a house development on the land subject to this application. A property positioned into the area of the site closer to the road and adjacent to 25 Geary would appear artificially squeezed into that land and would sit too close to its southern neighbour as well as obstructing access to the remaining higher croft land (see below).

Landownership prevents the house from being sited at the same distance back from the road as the existing properties and in an equidistant position relative to them. This would be the most acceptable approach to placing a new house between the existing two. Nevertheless, even in its set back position, the proposal ensures the site has a roadside frontage setting.

A property set even further back on the rising land would fail to conform to the clear linear historical settlement pattern of Geary and represent a second tier of development which should be resisted. Although set back from a line running between the two neighbouring properties, the indicative house position is not considered to be so far back from the road as to represent the second tier development proscribed against above. The settlement pattern of Geary, although strongly linear in form, does include a number of properties staggered back a little from the road. This proposed siting is considered to represent a staggered form of development consistent with this element of the established settlement pattern.

However, the raised position relative to the road indicates that the height of any subsequent house design will be critical in assuring its visual compatibility with its surroundings. Consequently, it is essential that a condition is imposed which requires any subsequent detailed design to feature a single-storey property of traditional design and form with its main roof ridge running parallel with the road frontage.

The condition will also need to ensure that the front elevation of the property is built as far forward in the site as possible to ensure that any excavation works to the rear are kept to a minimum and that the angle of overlooking to the neighbouring properties is minimised through being at the acutest of angles.

Neighbour amenity – a condition limiting the height of the building will also help to address concerns about the proposed property overlooking its neighbours to north and south or having an overbearing physical presence on them. A traditional design, aligned parallel with the road, is also less likely to feature side windows which might well be unacceptable from an overlooking consideration. As stated above, bringing the front elevation of the proposal as far forward as possible will limit overlooking out sideways from its front windows.

The distance between the front elevation of the proposal and neighbouring rear and side windows and rear amenity space is between 20 and 25 metres and this is considered to be at the minimum limit acceptable. The detailed design of any subsequent proposal will be constrained by this fact and it is considered that only a small property of limited floor area is likely to be acceptable. It is also proposed that landscaping is required along the southern and northern boundaries to protect and safeguard existing adjoining amenity.

Croftland – Policy 47 requires two features for acceptable development on croftland. The first is that the land used for the development should not be of the best quality and the second requires the siting of the development to avoid the obstruction of access onto the remaining croftland.

This proposal does not raise an issue in respect of the first concern, but does raise the issue of access onto the higher croft and grazing land beyond. At present a gate onto this land exists in the south-western corner of the site. The application details do not show any details of a route onto this higher land behind the proposal. However, the amended site plan does indicate that enough space exists for a track onto the higher croft to be incorporated into a detailed proposal as a small extension to the house driveway.

A condition is recommended to ensure that any subsequent detailed application includes this provision. Whether other individuals, beyond the landowner, have the right to use such an access for neighbouring croft and grazing land is not a material consideration for the authority.

Drainage – concern about the foul drainage proposals for the development have been raised and the application does not include any details in respect of soakaway location or form. It is known that a number of properties in the settlement have their soakaways positioned on the seaward side of the road and it is possible that the drainage characteristics and physical size of the site may require such a solution in this case also. However, there is no reason to assume that a drainage solution cannot be found for the property, as it has been for its neighbours, and a condition is recommended to ensure that these matters are fully resolved as part of any future detailed application.

In terms of surface water drainage, concern has been expressed that the building of a house in this location could exacerbate historic surface water run-off problems associated with the rising land to the west. This is a material consideration for the authority and a condition is recommended to ensure that any subsequent detailed application includes full details of a SUDS compliant surface water drainage system which takes account of not only the roof and hard surface run-off within the site, but also surface water originating from the higher land outwith the site.

Access – notwithstanding the matters relating to access onto the upper croftland, it is considered that a safe vehicular access to serve the proposal can be achieved. Assuming an average vehicular speed of 30mph along this stretch of public road, safe access should be achieved so long as visibility splays of 2.4m x 90m can be realised.

Although visibility is constrained to the north by a fall in the road level and a bend in the road, it is considered that this 90m requirement can still be achieved. A condition is recommended to ensure that a compliant access is included in any future planning application for the site and this will need to include cross-sectional detail to show an acceptable gradient which will not endanger other road users during icy ground conditions.

Conditions – given the constrained size of the site, its visual prominence and the sensitivity of neighbouring properties in respect of amenity protection, it is considered necessary to remove the permitted development rights of any future dwelling so that the authority can control further development of the site.

8.5 **Other Considerations – not material**

Third party comment has suggested that the fact the applicant does not live on the site and actively croft the land is a reason for refusal. This is not the case and no weight can be attached to the applicant's future intentions for the site or any house

built on it.

The authority can place little weight upon the potential temporary loss of amenity for neighbouring residents during the course of construction. There is not an unusual situation involving a particularly sensitive receptor here and, for single house sites such as this, the issue is usually best resolved by allowing works to proceed as quickly as possible. Reasonable working hours and noise control can be controlled through Environmental Health legislation.

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

None

9. **CONCLUSION**

- 9.1 It is considered that a house can be supported in this instance however it is essential that conditions imposed secure a high standard of design and finish along with measures to minimise ground works to ensure its successful assimilation within this landscape setting.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued N

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

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

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

2. Any details pursuant to Condition 1 above shall show a house of traditional form and proportion incorporating the following elements:

- i. walls finished predominantly in a white/off-white wet-dash render or natural stone;
- ii. a roof covering of natural slate;
- iii. single storey in height;
- iv. windows with a strong vertical emphasis;
- v. a roof symmetrically pitched of not less than 35° and not greater than 45°;
- vi. predominantly rectangular in shape with traditional gable ends and with the main roof ridge aligned parallel with the road frontage.
- vii. The building positioned as indicated on the approved site plan such that its front elevation is as close to the eastern boundary of the site as possible.

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

3. Any details pursuant to condition 1 above shall show surface water drainage provision within the application site which accords with the principles of Sustainable Urban Drainage Systems (SUDS) and is designed to the standards outlined in Sewers for Scotland Second Edition (or any superseding guidance prevailing at the time). The submitted details shall show how the scheme addresses the management of surface water originating from the higher land to the west of the site as well as that originating from the drained surfaces of the development itself.

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

4. Any details pursuant to condition 1 above shall show details of access, suitable for accommodating agricultural traffic, provided through the application site to the adjacent croftland. Prior to the first occupation of the dwelling, the access shall be formed in accordance with the details approved by the Planning Authority and thereafter shall be maintained in perpetuity.

Reason : To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of, another part of the croft or other croftland.

5. Any details pursuant to condition 1 above shall show the site access constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines with:
 - i. the junction formed to comply with drawing ref. SDB1; and
 - ii. visibility splays of 2.4m x 90m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

No other development shall commence until the junction has been constructed in full and within the stated visibility splays, at no time shall anything obscure visibility

between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

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

6. 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 dwelling 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.

7. Any details pursuant to condition 1 above shall include details of a scheme of hard and soft landscaping works. Details of the scheme shall include:
- i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point, including a cross-section of the access driveway gradients up to the dwelling;
 - ii. A plan showing existing landscaping features and vegetation to be retained;
 - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
 - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities, including planting specifically designed to protect the amenity of the neighbouring properties to the north and south of the site; and
 - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.

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.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

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 LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION IN PRINCIPLE

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

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

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

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

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

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building

Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

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

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

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

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

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

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

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place

a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Permitted Development Rights

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

Signature:

Designation: Area Planning Manager - North

Author: Mark Harvey

Background Papers: Documents referred to in report and in case file.

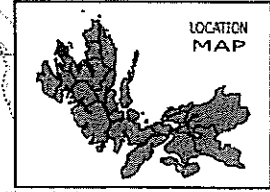
Relevant Plans: Plan 1 – Location Plan 000001

Plan 2 – Amended Site Layout Plan 000002 Rev B

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Dr and Mrs Herdan	26 Geary	31 March 2012 and 8 May 2013	Against
Peter Matheson	25 Geary	12 April 2012	Neutral
Alexandra Rankin	Beams, Geary	13 April 2012 and 7 May 2013	Against
Kathryn Albinson	30 Geary	13 April 2012 and 8 May 2013	Against
Brian Williams	22 Geary	14 April 2012 and 7 May 2013	Against
Moira Scobbie	28 Geary	14 April 2012	Against
Mr & Mrs Frost	23/24 Geary	4 May 2013	Against
Mr & Mrs Morton	31 Geary	9 May 2013	Against

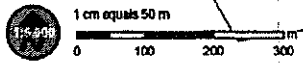
- Development Requirements**
- See Part 200
- Development Factors (Policy 2)**
- See Part 200



RECEIVED 21 NOV 2011

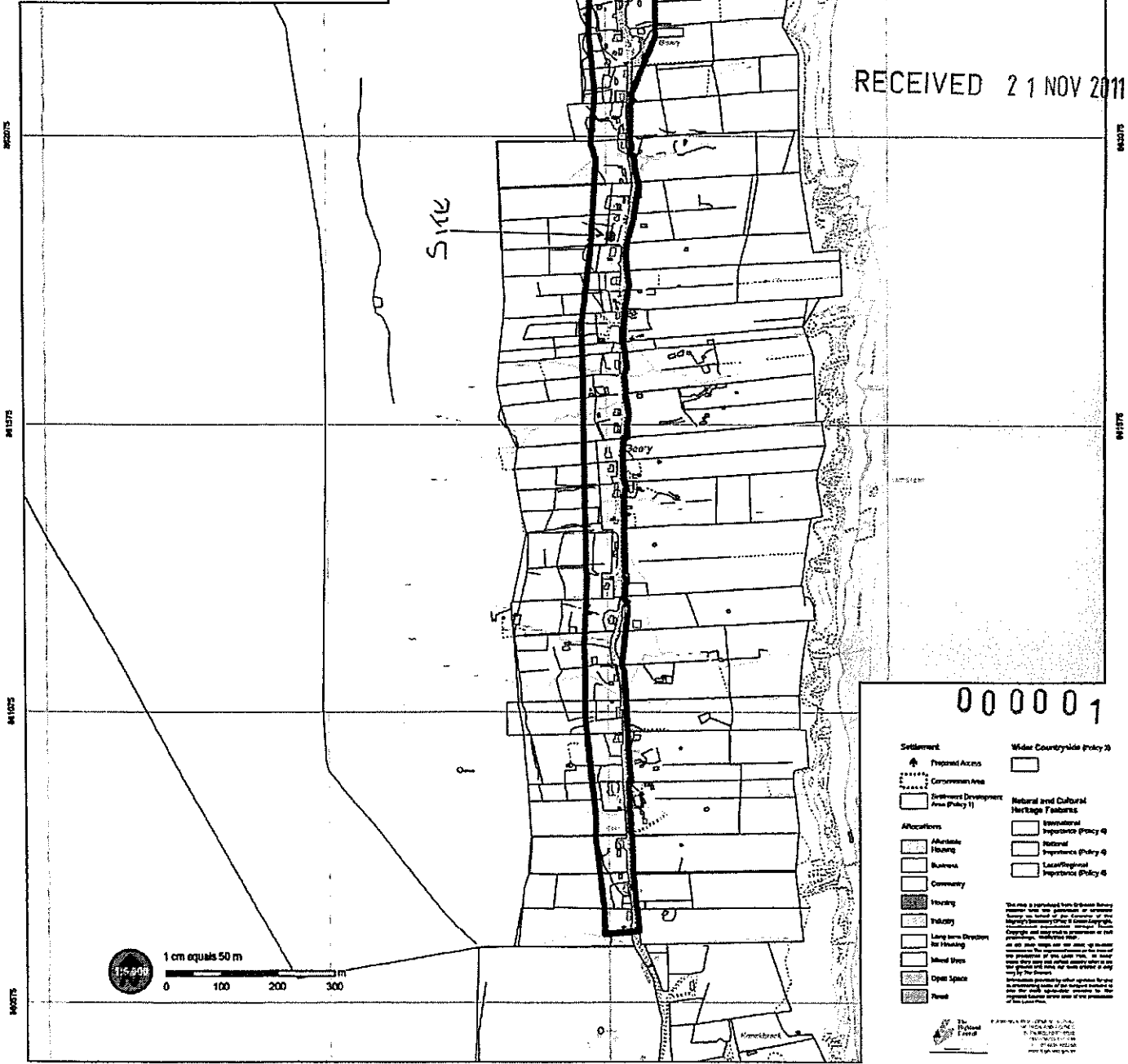
SKYE

000001

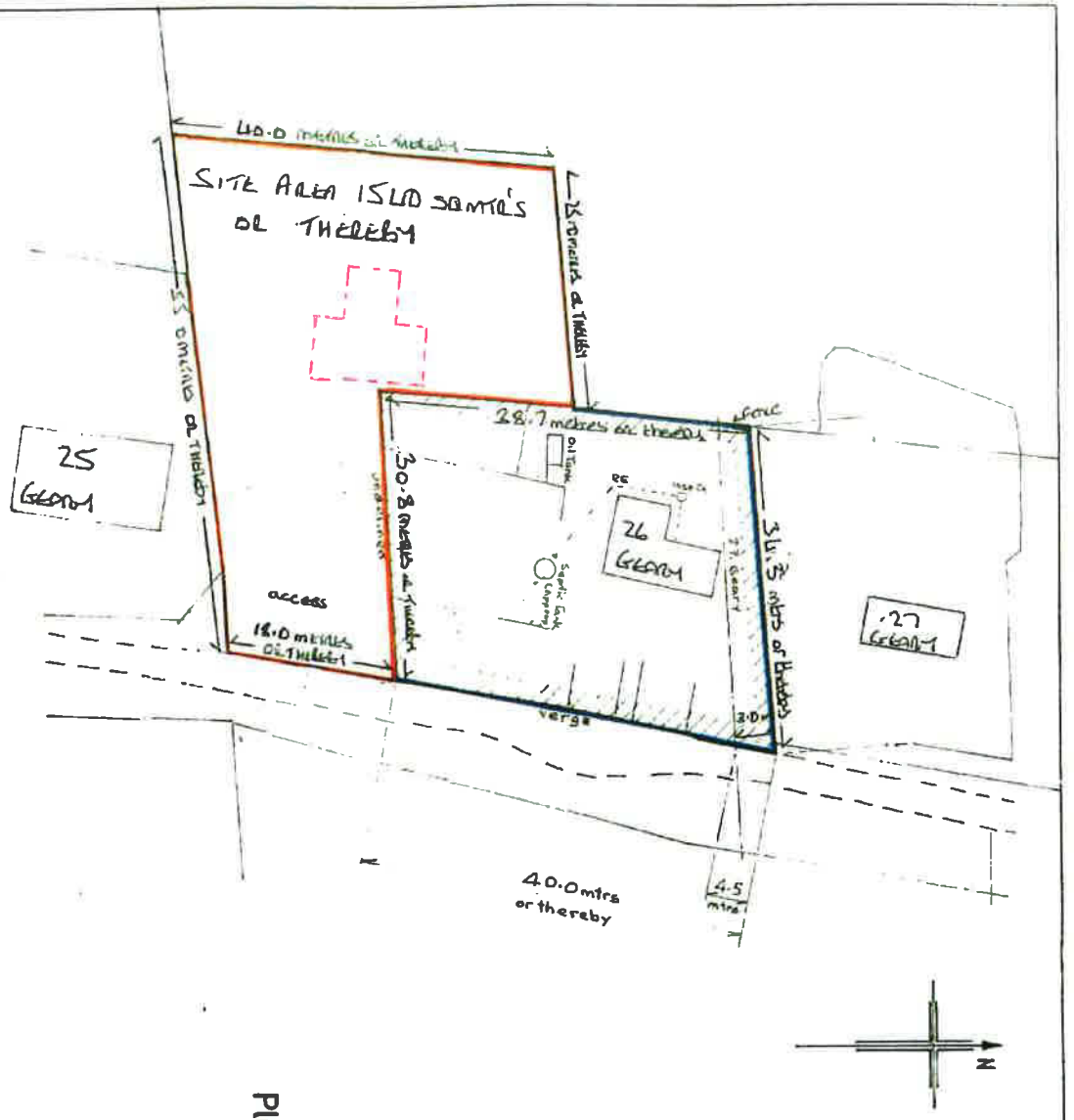


Settlement	Wider Countryside Policy 2
Proposed Access	
Conservation Area	
Settlement Development Area (Policy 1)	
Allocations	Natural and Cultural Heritage Features
Agriculture	Statutory Importance Policy 4
Residential	National Importance Policy 4
Business	Local/Regional Importance Policy 4
Community	
Housing	
Industry	
Large Scale Division for Housing	
Mixed Uses	
Open Space	
Road	

The plan is prepared in accordance with the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1967 and the Planning (Listed Buildings and Conservation Areas) Regulations 1989. It is subject to the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1967 and the Planning (Listed Buildings and Conservation Areas) Regulations 1989. It is subject to the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1967 and the Planning (Listed Buildings and Conservation Areas) Regulations 1989.



Site Plan Scale 1:500
 Area = 1540 sq / metres



Plan of house site and garden at 26, Geary, Waterinish,
 Isle of Skye, IV51 8GQ.

O.S. Ref: NG2661-2 Scale 1:2500

