

**THE HIGHLAND COUNCIL**

**NORTH AREA PLANNING APPLICATIONS COMMITTEE  
– 29 April 2014**

Agenda Item	6.3
Report No	PLN/034/14

**13/04561/PIP : Mr R and M Bennett  
Land 50M SE Of 8 Husabost, Totaig, Dunvegan**

**Report by Area Planning Manager**

**SUMMARY**

**Description** : Erection of house, access, services and an agricultural shed. Siting of temporary caravan for use during building works.

**Recommendation - APPROVE**

**Ward** : 11 - Eilean A' Cheò

**Development category** : Local Development

**Pre-determination hearing** : n/a

**Reason referred to Committee** : More than five objections.

**1. PROPOSED DEVELOPMENT**

1.1 This application seeks planning permission in principle for a single dwellinghouse on a shelf at the top of rising land to the west of the settlement road. The proposal is broadly on the site of ruins believed to be that of a blackhouse and traditional croft houses to the north also share this level on the hillside to create a linear settlement pattern.

The application also proposes a shed on the other side of the road. Here, the land falls away quite steeply towards a wooded area and then to the coastline.

The drawings include an indicative elevational design for the dwelling which features to round towers on its southern end and turf roofing.

1.2 The proposal has not benefitted from pre-application advice

1.3 Access is to be taken from an existing track serving the neighbouring property to the north.

Drainage is to be by conventional soakaway

1.4 Following initial objections and inaccuracy about the land ownership details of the land, explanatory letters have been submitted by the applicant, agent and the applicant's solicitors.

- 1.5 **Variations:** Amended plans have been received with a new application boundary to take account of a previously unknown land ownership immediately to the north of the house site and the house position moved 2 - 3 metres to the south.

## 2. **SITE DESCRIPTION**

- 2.1 The rising land leading up to the house site is good quality grazing grassland. The access track from the public road rises up the northern boundary of this land. At the top of the track, to the north, is the property known as 8 Totaig – a traditional one and a half storey, three dormer croft house.

The neighbouring property to the south is a more modern property set within a wooded site and known as 7 Totaig. The proposal is much closer to the southern property than the northern one.

## 3. **PLANNING HISTORY**

- 3.1 00/00082/FULSL - Erection of house – Withdrawn 22.05.2000  
08/00226/OUTSL – Erection of house – Withdrawn 27.08.2008

## 4. **PUBLIC PARTICIPATION**

- 4.1 Advertised : Unknown neighbour – 10.01.2014  
Representation deadline : 19.03.2014 – following re-notification of amended site boundary

Timeous representations : 17 from 10 addresses

Late representations : 0

- 4.2 Material considerations raised are summarised as follows:

- Would result in the loss of best quality croftland and put the continuing viability of the croft in question
- Proposed house is too close to the neighbours at both 7 Totaig and 8 Husabost and will result in a loss of amenity and light and be overdevelopment of the land
- Shed could result in flooding of neighbouring land
- Existing building is a habitat for a large bat colony
- Access and parking area are currently used by residents of 8 Husabost. Access is private
- Shed may impact on wildlife in woodland on the seaward side of the road
- Indicative amended house position is only 18 metres from 7 Totaig. Indicative design shows towers which would seriously impinge on privacy and be overbearing
- Concerned the house might be used as a healing/training centre
- Shed is too close to Sleepy Hollow (7 Husabost) and could cause a noise nuisance
- Indicative design is not in keeping with the houses around it and is too large

- Existing ruin should be retained
- Concerned about the visual impact of the track to the shed and possible loss of seaward views
- Original plans included land in other ownership
- Appears from website that shed will be used to house a large woodworking machine

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet [www.wam.highland.gov.uk/wam](http://www.wam.highland.gov.uk/wam). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

5.1 **Building Standards** : No objection

## 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 34	Settlement Development Areas
Policy 47	Safeguarding Inbye/AppORTioned Croftland
Policy 57	Natural, Built and Cultural Heritage
Policy 58	Protected Species
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

### 6.2 West Highland and Islands Local Plan 2010

Policy 2	In respect of settlement development areas and land allocations
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## 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

n/a

## **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 site falls within the Settlement Development Area for Colbost and Totaig 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 61 further emphasises the need for development to respect the landscape character of their surroundings.

There is also a requirement to judge proposals in terms of their impact upon the natural, built and cultural heritage features identified by Policy 57. The site falls within the North-West Skye Special Landscape Area and an area of Protected Views Over Open Water in respect of which Policy 57.1 states that developments will be supported where they can be shown not to have an unacceptable impact upon the identified protected amenity and heritage resource.

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

Policy 58 states that where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, a survey will be required to be carried out to establish any such presence and if necessary a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

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 – The existence of the blackhouse ruin within the indicative siting position of this house, coupled with the clearly identified linear settlement pattern created by the existing dwellings to both the north and south, are clear indications that the siting chosen is the correct one in respect of other alternatives closer to the road. The position selected for this property is entirely consistent and compatible with the historic settlement pattern.

However, it must also be recognised that this places the property in a prominent location in an elevated position above the public road. When it comes to submitting the elevational details of a house on this site, this is likely to prove an important constraint. It is noted that the indicative elevational design suggested – with an unusual form including twin towers at the southern end – may only serve to accentuate the site's visual prominence. This could be a problem for such a design in gaining planning permission and so it needs to be emphasised that in recommending permission in principle for a dwelling in this location, no commitment is being made in respect of the indicative house design.

In respect of the shed on the seaward side of the public road, it is noted that there is considerable development within the landscape to the south of this location and so in principle it should present no issues. However, it is also noted that the other buildings to the south, by virtue of the gradient of the land, are well hidden from public view and in no way interrupt the protected seaward views to be enjoyed. It will be important that the final detailed design of this shed is such that it also makes good use of the lie of the land and is of a scale that allows it to sit largely out of view from the road. This land is much more visible from the elevated house positions than it is from the road. The shed will require to be the subject of a separate prior notification submission

Neighbour amenity – With a separation distance from 8 Totaig to the north of some 45m, it is not considered likely that any acceptable design will have a negative impact on the amenity of that neighbour through overlooking or overshadowing. However, with a separation distance of less than 20m to 7 Totaig to the south any detailed design will have to avoid windows in the southern elevation and be modest in height to avoid an overbearing relationship across this boundary. Again, the indicative design may not be able to fit within such limitations.

Access and Parking – another aspect of neighbour amenity raised by the neighbour to the north during the course of the application, is that the proposed parking area at the top of the access track will obstruct an area used for turning by the neighbour at present. The drawings indicate that provision has been made for one parking space for use by the neighbour in the new design. Notwithstanding that this land does appear to be within the application site landholding, it is not considered that this situation is likely to prove intractable and a mutually acceptable solution should be possible to find before a detailed permission is sought.

More problematic, from an access point of view, is the recent discovery that the land between the parking area and the house site falls within the ownership of a third party. The amended plans respond to this with a revised access route across the croft at a lower level. Although this will be visually more intrusive, it does seem to follow the natural topography of the land and is acceptable. The route between the car shelter area and the house is awkward – downhill steeply before joining the new access route, but the parties may well be able to come to an access agreement before detailed plans are submitted.

The submitted site layout plan shows the upgrading of the access with the public road and also the provision of a winter parking bay. This will double as a passing bay. It is noted that the access design will need to comply with the SDB2 standard

layout rather than SDB1 as shown on the drawing. Visibility along the public road appears to be more than adequate. Some improvements to the surface of the track are also likely to be required. This can be secured by condition.

Drainage – there seems no reason to assume that a conventional soakaway system for the foul drainage will not be successful on this land. Detailed application should include percolation test results to prove this. Building Standards will control this aspect of the development at the construction stage

Historic Environment – the historic environment team have suggested that the ruin represents one of the few surviving buildings (house and outbuilding) associated with the early township. Consequently, they have suggested that any detailed scheme should try to preserve the ruins.

The current drawings indicate the destruction of the house ruin due to the siting of the proposed new house. However, it is possible that an alternative design could be submitted at the detailed stage which would make provision for the retention of the ruins – as outhouses possibly. This can be incorporated into the conditions of this permission.

The team also wish for the buildings to be subject to a standard photographic survey prior to any development taking place.

Ecology – several of the third party objections to the application state that the blackhouse ruins on the site provide habitat for the small Pipistrelle bat species. This is surprising because the building has no roof and is thus quite exposed as a roost. However, the Pipistrelle is known to use small crevices for overnight roosting and the ruin provides such a habitat. As detailed below a condition is proposed to avoid damage or destruction to the ruins and as such the proposal would not impact on the bats. Should a proposal come forward which would entail any works to the ruin in the future then that would require to be the subject of a protected species survey before any planning permission involving demolition was granted.

Indicative Siting - given the authority's reservations about the indicative design submitted with this application and the advice of the historic environment team above, it is considered reasonable to condition this permission such that any detailed proposal features a design which avoids the destruction of these ruins. Any development which did not comply with this obligation would require to be considered as a stand alone detailed application and the subject of a protected species survey as outlined above.

The implication of a siting position that avoids the ruins is that the footprint of the dwelling will have to move to the east of its indicative position – further down the edge of the slope leading up to the platform on which the ruins stand. This will involve more extensive cutting into the slope for the house foundations (underbuilding will not be acceptable) and this will have some visual implications. However, this greater visual impact is considered an acceptable compromise if it leaves the ruins in situ. Such a lowered position would also reduce the visual impact of the new dwelling upon the neighbouring property to the south.

Croftland – At least one representation has suggested that the development could result in the viability of the croft being destroyed due to the loss of land and subdivision. However, the plans indicate that the de-crofted area will only amount to 0.1ha and so the rest of the croft can be expected to continue to be able to support purposeful uses as in the past.

## 8.5 Other Considerations – not material

Much of the third party comment on this application has been stimulated by information on the applicant's website that the site might be used as a place for respite care, healing facilities, training and as a site for camping.

None of these uses and activities have been made the subject of this application and so they are not material considerations for this proposal.

As several third parties have identified, many of these potential uses would require further planning permissions. This application does not make the likelihood of those further permissions being granted any more or less likely. They will have to be assessed on their merits if and when they are submitted to the authority.

## 8.6 Matters to be secured by Section 75 Agreement

None

## 9. CONCLUSION

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

## 10. RECOMMENDATION

**Action required before decision issued** N

**Subject to the above**, it is recommended the application be **Approved** 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. landscaping proposals for the site of the proposed development (including boundary treatments);
  - iv. details of access and parking arrangements including access track surfacing improvements; 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 the site access constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 6 April 2014) with:
  - i. the junction formed to comply with drawing ref. SDB2; and
  - ii. visibility splays of 2.4m x 200m to the south and 2.4m x 140m to the north (the X dimension and Y dimension respectively) 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.

3. No development or work (including site clearance) shall commence until a photographic record has been made of the remains of any buildings and/or other features affected by the development/work, in accordance with the attached specification, and the photographic record has been submitted to, and approved in writing by, the Planning Authority.

**Reason** : In order to assist the Council with maintaining an accurate and current record of the historic environment.

4. The residential caravan within the application site is permitted solely for the use of the applicant or developer for the duration of construction works associated with the development hereby approved. Within one month of the completion of the development or first occupation of the dwellinghouse, whichever is the sooner, the caravan shall be removed permanently from the application site, along with all associated fixtures and fittings.

**Reason** : To ensure that any development which has ceased to serve its intended purpose is removed from the site, in the interests of visual amenity.

5. Any details pursuant to Condition 1 above shall show a development designed and positioned such that it avoids the partial or complete demolition of either of the ruins in the south-west corner of the application site.

**Reason** : In order to preserve one of the few surviving buildings associated with the early township.

## **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**

### **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.

### **Protected Species - Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: [www.snh.gov.uk/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species)

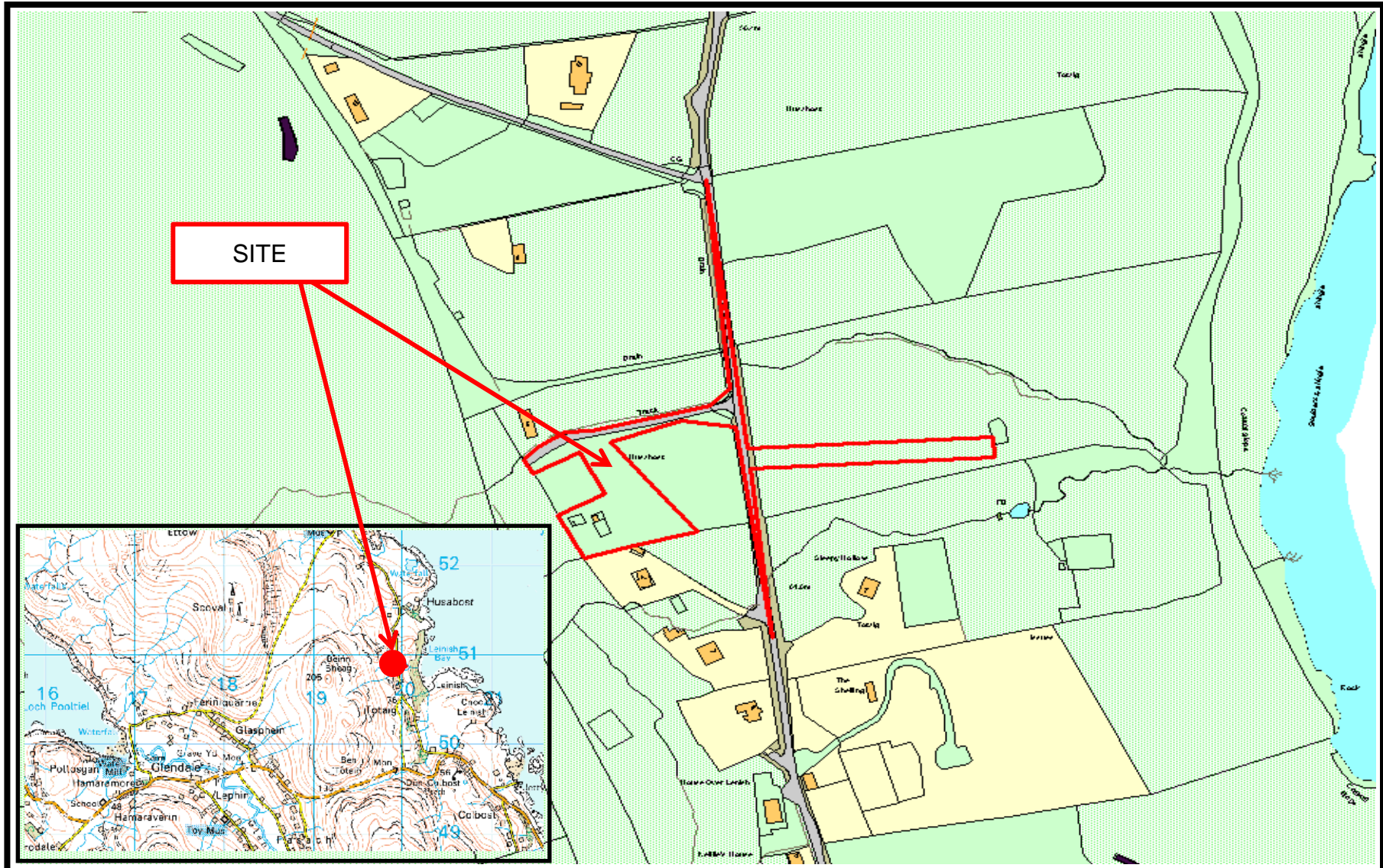
### **Protected Species - Contractors' Guidance**

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Mark Harvey  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan 248/1  
Plan 2 – Site Layout Plan 248/2  
Plan 3 – Site Layout Plan 248/3  
Plan 3 – Site Layout Plan 248/4

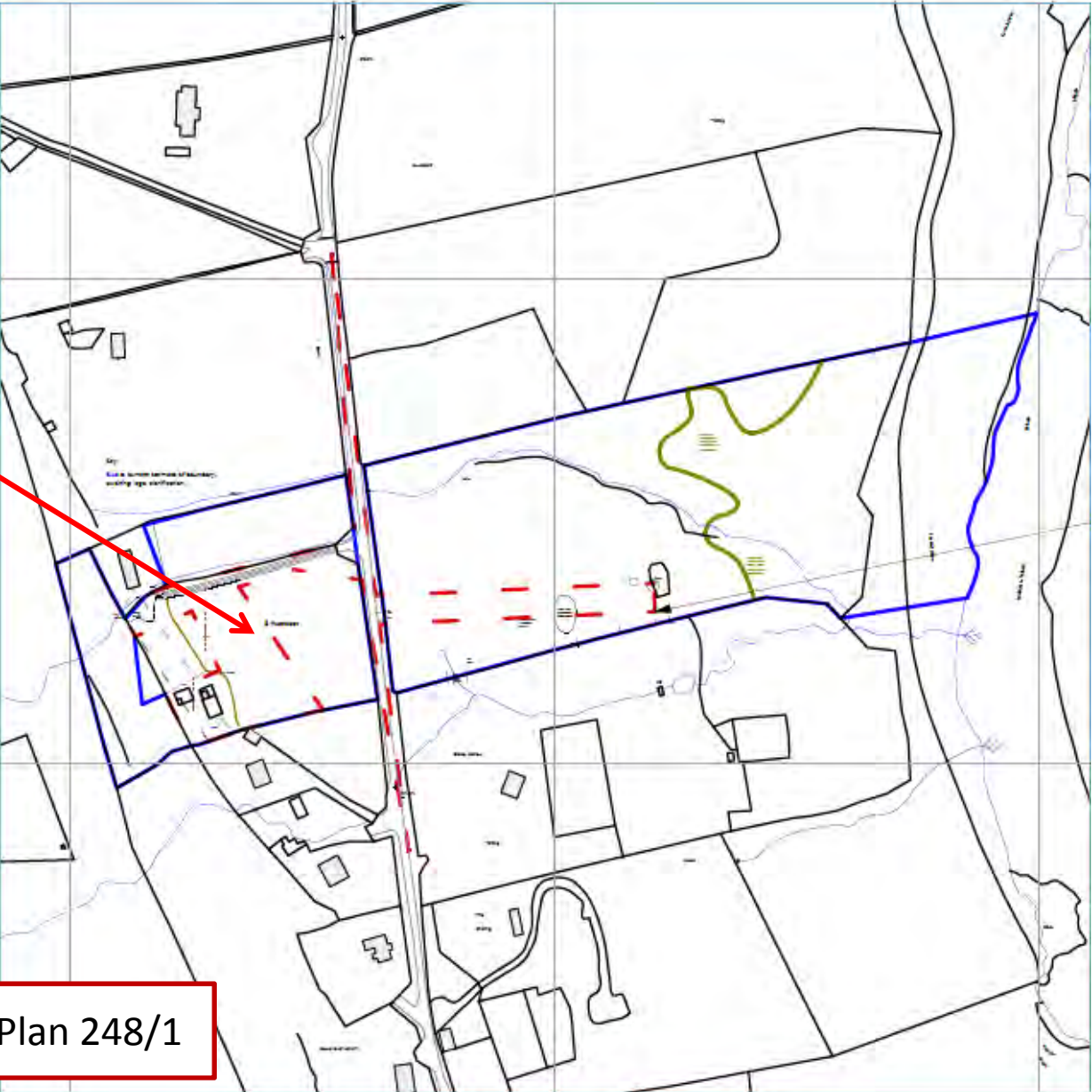
## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Thomas Bendall	'Sleepy Hollow' 7 Husabost	5 Jan 2014 & 10 Mar 2014	Against
Marion MacPherson	9 Husabost	7 Jan 2014 & 12 Mar 2014	Against
Mr Michael Southall	Staithe Farm, Langley Street, Norwich	7 Jan 2014	Against
Mrs Kirsten Macleod	An Cliereach, 8/9 Balmeanach, Struan	7 Jan 2014	Against
Marion MacPherson as Clerk of Uig, Totaig and Borreraig Parks common grazings	9 Husabost Also signed by Thomas Bendall – Chairman, William MacInnes – committee member, Peter Cropper – committee member	7 Jan 2014	Against
Mr Graham Davies	7 Totaig Chalet	13 Jan 2014 & 10 Mar 2014	Against
Mr and Mrs Roy and Ellie Milne	The Longhouse, 10 Husabost	17 Jan 2014 & 10 Mar 2014	Against
Mr Peter Jones	8 Husabost	17 Jan 2014 & 25 Feb 2014	Against
Mr Lindsay Matheson	52 Largo Rd, St Andrews KY16 8RP	20 Jan 2014 & 10 Mar 2014	Against
Macleod and MacCallum Solicitors	On behalf of MR John Martin and Mrs Kate Martin (owners of adjacent land at 8 Totaig)	20 Jan 2014	Against
Mr and Mrs Tim and Blair Hunter Davies	2 Skinidin, Dunvegan	20 Jan 2014	Against

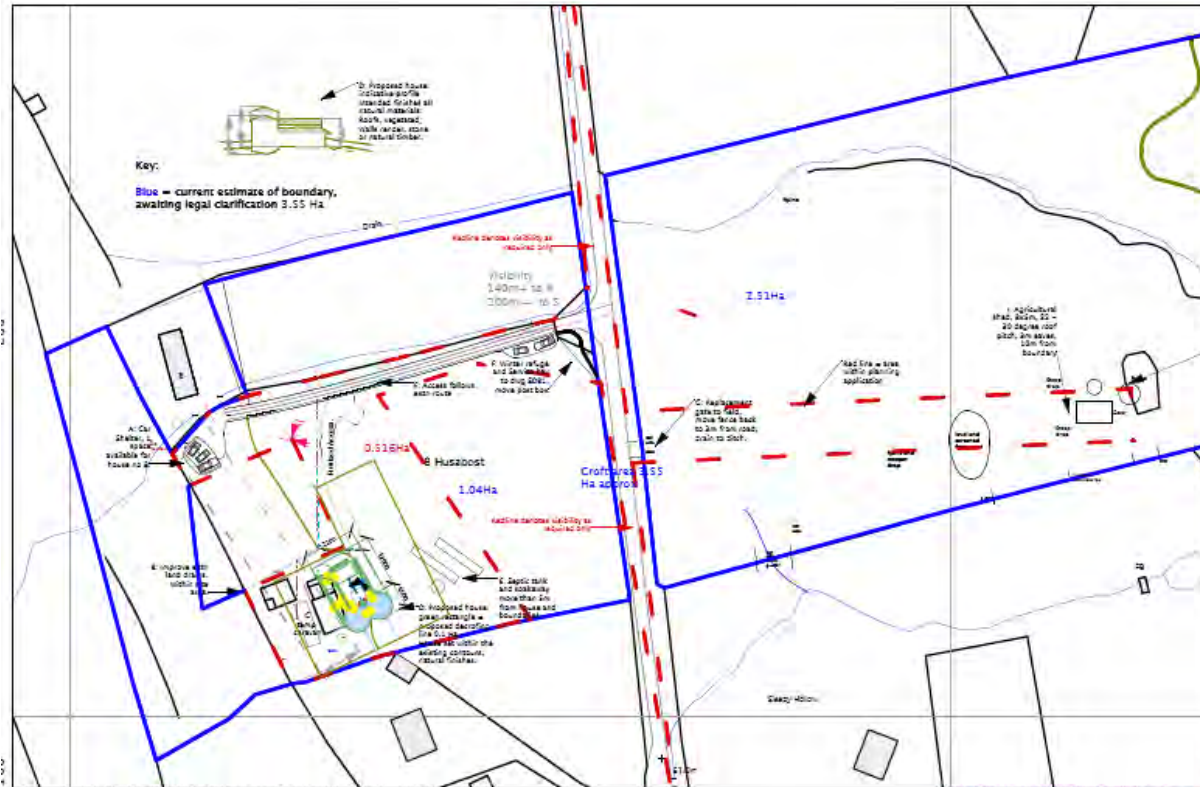




SITE



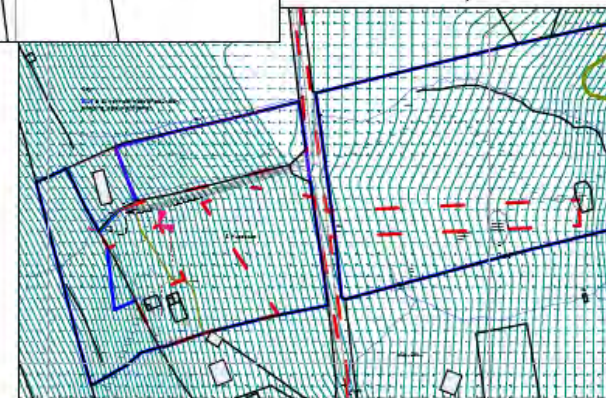
Plan 1 Location Plan 248/1



8 Husabost, Isle of Skye **Key to site layout.** I.B. 22/11/13

House at 8 Husabost PIP application	
A	3 car shelter: turf or stone walls, turfed roof, 9mx6.3 m greatest dimensions.
B	Site is well drained, land drains and gravel to improve this.
C	Temp caravan [to be removed on Warrant completion or occupation certificate]. To use new septic tank mains water and electricity.
D	House with low pitched veranda roof, low pitched grassed main roof, 12.1x11m greatest extent of outer dimensions, layout fitted to contours with 2 towers at end toward 7 Husabost, front tower dropped approx 1500 c/f general floor area, see dwgs. Construction in sustainable materials using locally grown or quarried materials for main bulk of construction and incorporating the use of renewable technologies to produce a low impact building in terms of energy use and embodied energy as Highland Council policy. Design statement can be produced if required. House to form part of the croft business [incl horticultural and conservation aspects].
E	Septic tank and soakaway, proof against sheep, retaining agricultural use, sized to suit perc tests.
F	Access is worse than 10% so winter refuge as noted. Visibility is greater than min required. Add

**Plan 2 Site Layout Plan 248/2**



PIP Review  
 Ownership  
 Boundaries  
 Drawn I.M.S  
 5/2/14

Ian Brown  
 Design/Build

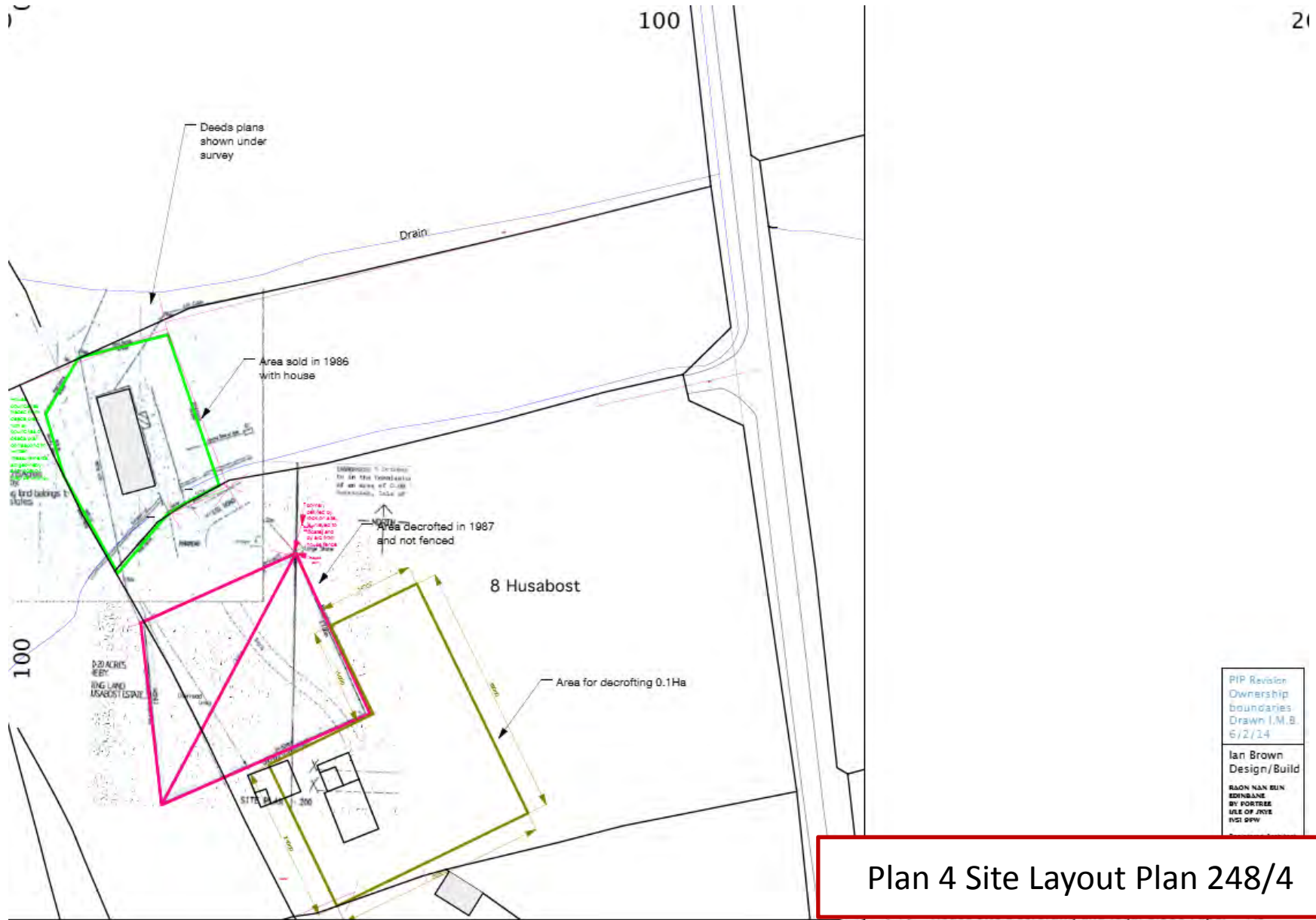
RALPH NAIN BURN  
 BONDHANE  
 BY PORTREE  
 ISLE OF SKYE  
 IV21 5PW

Registered Architect  
 0209087184.com  
 01470 532462









PIP Revision  
Ownership  
boundaries  
Drawn I.M.B.  
6/2/14

Ian Brown  
Design/Build

RAON NAN BIN  
EDINBLANE  
BY FORTRIS  
USE OF JOVE  
PVTI DPW

Plan 4 Site Layout Plan 248/4