

THE HIGHLAND COUNCIL

**NORTH AREA PLANNING APPLICATIONS COMMITTEE
– 5 August 2014**

Agenda Item	6.5
Report No	PLN/053/14

**14/01511/PIP : Mrs Rena Mackinnon
Land 45M SE Of 4 Dunhallin, Waternish, Isle Of Skye**

Report by Area Planning Manager

SUMMARY

Description : Erection of house, formation of access & installation of treatment tank

Recommendation - GRANT

Ward : 11 - Eilean A' Cheò

Development category : Local Development

Pre-determination hearing : n/a

Reason referred to Committee : Number of objections.

1. PROPOSED DEVELOPMENT

- 1.1 This application seeks planning permission in principle for a single dwelling on croftland above the seaward side of the B.886 Stein-Trumpan road and within the settlement development area of Hallin/Halistra.
- 1.2 Informal pre-application advice has been sought for the proposal and a generally positive response provided.
- 1.3 Site access is indicated as being from the single track road which runs up through the croft from B.886 and on up to the upper line of the Dunhallin settlement pattern providing access to two existing dwellings – 4 & 5 Dunhallin.
- 1.5 **Variations:** amended site and location plans submitted to clarify the boundaries of the site following comments from the neighbour at No.5

2. SITE DESCRIPTION

- 2.1 The site is an area of open sloping croftland at the upper, north-eastern end of the croft. The croft, along with the entire landform in this part of the settlement, continues downhill to the south-west before meeting the B.886 road.

- 2.2 A narrow access road winds up through the croft from the main road and currently serves Nos. 4 and 5 Dunhallin. These two properties form part of an 'upper' line of houses sitting some 200m to the north-east and above the line of houses lining the northern side of the main road.
- 2.3 The indicative siting for this dwelling is set back a little from its immediate neighbour – 4 Dunhallin – although this puts it in line with the last house in this upper line – 1 Dunhallin some 200m to the south-east.

3. PLANNING HISTORY

- 3.1 14/01423/PIP - Erection of house, formation of access & installation of treatment tank - Pending (application on the same croft at the 'lower' road frontage level)

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown Neighbour – expiry date 16 May 2014
Representation deadline : 27 June 2014 (extended to allow Crofting Commission consultation response)
Timeous representations : 12 from 12 households
Late representations : None
- 4.2 Material considerations raised are summarised as follows:
- Blue-edged site boundaries are incorrect
 - This is good agricultural land and should not be developed for housing
 - The addition of this house to the two already on the croft and a fourth also in the planning system (14/01423/PIP) would render the croft useless
 - Further development will damage the attractiveness of the area for tourists
 - Foul drainage treatment tank discharges to burn which subsequently passes close to the private water supply well from which 3 Dunhallin obtains its private water supply
 - The access track is in a poor state of repair and cannot cope with additional traffic which will cause increased noise disturbance for 4a Dunhallin. Large delivery vehicles cannot negotiate its sharp bends and have to unload on the main road.
- 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 **Building Standards** : No comment received at time of writing
- 5.2 **Waternish Community Council** : registered an interest in the application but the CC was dissolved due to resignations before a formal response could be made. A letter from 'the community' was subsequently received.

5.3 **Crofting Commission** : General Policy Response provided

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/Appportioned Croftland
Policy 57	Natural, Built and Cultural Heritage
Policy 61	Landscape
Policy 65	Waste Water Treatment
Policy 66	Surface Water Drainage

6.2 West Highland and Islands Local Plan 2010

Policies 1 & 2 In terms of boundary definition of settlement development areas and other land allocations

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

n/a

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 2014

7.4 Other

Special landscape Areas Citations

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 within the Settlement Development Area for Hallin/Halistra 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 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.

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

8.4 **Material Considerations**

Design, Appearance and Landscape Impact – the submitted indicative site layout plan shows a position for the proposed dwelling set a little way back from the line of the neighbouring properties at 4 and 5 Dunhallin.

In terms of settlement pattern, this is not considered to be significantly detrimental in terms of landscape impact. It can be equally argued that a building in this position will read as being in a sympathetic position with the more distant property at 1 Dunhallin to the south-east.

More importantly, final siting and design will need to be assessed together in any subsequent detailed application to achieve an acceptable final visual appearance. In this regard, a condition is recommended to control the basic parameters of any future design – traditional form, scale and massing and limited to one and a half storeys in height. This will ensure that the final detailed design is compatible with those of its existing neighbours.

Neighbour amenity – separation distances between the proposed property and No.4 Dunhallin should be adequate to avoid any loss of amenity to that property due to overlooking or overbearing presence although, again, careful design and siting will be the determining factors. A position a little further to the south-west than shown indicatively might assist in this regard.

Croftland – the other issue raised most strongly in the third party objections was the impact this development (in conjunction with the 14/01423/PIP proposal) would have upon the viability of the croft.

The Crofting Commission have been consulted and have responded with their General Policy Response which basically raises the same considerations in respect of the continuing agricultural viability of the croft as Policy 47 of the development plan. The main considerations are;

- That the development avoids the better quality soils on the croft
- That the development does not result in access to the remainder of the croft being obstructed or unreasonably restrict the flexibility to cultivate and move stock on the remaining croft land
- That the remaining land is not reduced to an unviable size or form

There is no evidence to suggest that this site represents better quality in-bye land – its current appearance and that of neighbouring croftland would suggest that this land is and always has been rough grazing.

With the public road winding its way up through this croft, access to remaining land is not compromised in any way. However, the final layout of any detailed scheme approved will have to make provision for a croft access to the land above the application site. A condition is recommended to ensure this occurs.

Even taking the land loss associated with the 14/01423/PIP proposal into account alongside that lost to the two existing houses and this proposal, more than 75% of the original croft will still be available for purposeful crofting use.

Consequently, it is concluded that the proposal is in compliance with Policy 47 and no harmful loss of crofting land will result from the development.

Access and Parking – The road serves two other dwellings currently and so vehicle movement numbers are limited. Although the road is in poor condition at present, it is not considered that this development will cause any unacceptable further deterioration to this adopted road. The access will require to be formed to the appropriate standard.

It is recognised that the twisting and rising turn required of vehicles in the southern portion of the access road will make it difficult for large construction vehicles to negotiate. However, this will not prevent the building works, it will merely require careful project management.

It should also be noted that an informative note is recommended reminding the applicant that the roads authority reserves the right, under Section 96 of the Roads (Scotland) Act 1984, to recover all costs for repairing any damage to the public road which can be attributed to construction works for this development.

Drainage – In terms of foul drainage an issue of amenity has been raised by a third party comment relating to the neighbouring water supply to 3 Dunhallin. The site layout plan shows an intension to utilise a treatment tank and partial soakaway system eventually discharging into the burn which flows down through the entire length of the croft. It has been pointed out that this burn passes close to the private water supply for No.3 raising concerns about contamination.

However, the discharge to the burn will require the consent of SEPA as well as that of Building Standards and this will allow the issue of the potential for contamination to be properly explored in a technical manner.

8.5 **Other Considerations – not material**

- The existence of six consented house plots and a further four houses for sale in the locality is not a material consideration.
- The fact that the applicant does not live on the croft is not a material consideration for the planning authority
- The fact that the plots may be subsequently sold in the open market is not a material consideration

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 **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. landscaping proposals for the site of the proposed development (including 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 development featuring the following elements:
 - i. walls finished predominantly in a white/off-white wet-dash render/smooth coursed cement render/natural stone;

- ii. a roof covering of natural slate;
- iii. single or one and a half 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 of no more than 7.6m in width

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 and neighbour amenity.

3. 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 the junction formed to comply with drawing ref. SDB1.

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

4. Any details pursuant to condition 1 above shall show car parking spaces provided within the curtilage of the dwellinghouse and formed in accordance with The Highland Council's Access to Single Houses and Small Developments prior to first occupation, thereafter being maintained for this use in perpetuity. Provision, which shall exclude garages, shall be as follows:
- i. Two spaces per 1 to 3 bedrooms;

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

5. Any details pursuant to condition 1 above shall show a vehicle turning area within the application site formed in accordance with The Highland Council's Road Guidelines for New Developments. The turning area shall be provided prior to the first use of the development and thereafter maintained as a turning area in perpetuity.

Reason : To ensure that sufficient space is provided within the application site for the parking (and, where necessary, turning) of cars, so they do not have to park within or reverse onto the public road.

6. 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 dwellinghouse hereby approved, 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.

REASON FOR DECISION

The proposal accords with the provisions of the Development Plan and applicable supplementary guidance. 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.

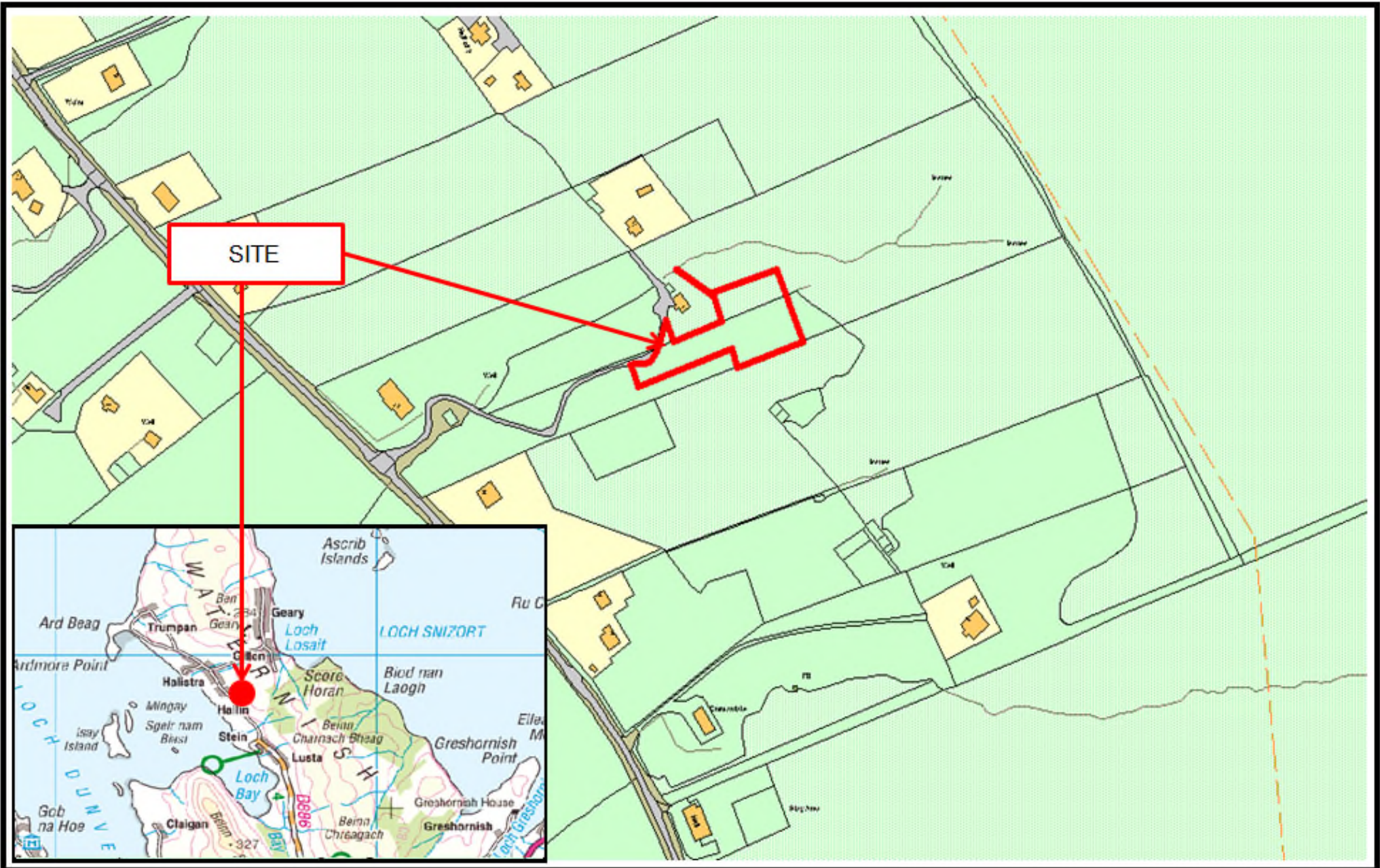
Damage to the Public Road

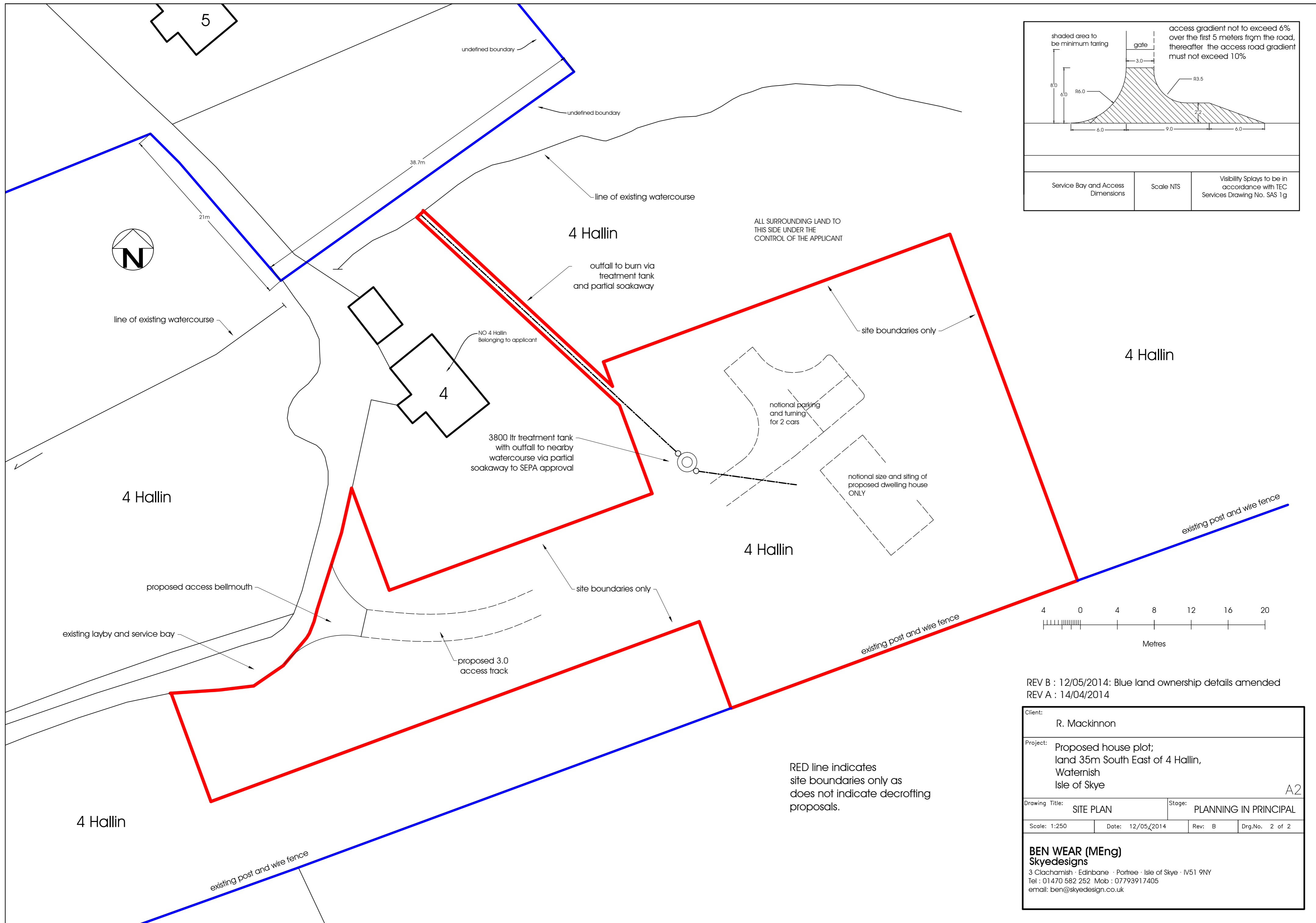
Please note that the Council, under Section 96 of the Roads (Scotland) Act 1984, reserves the right to recover all costs for repairing any damage to the public road (and/or pavement) which can be attributed to construction works for this development.

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 Rev.B
Plan 2 – Site Layout Plan Rev. B

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Robert Arnold	Dunhallin IV55 8GH	26 Apr 2014	Neutral
A MacDonald	15 Dunhallin	7 May 2014	Against
C Gillies	11 Dunhallin	7 May 2014	Against
Kenneth MacDiarmid	14 Dunhallin	7 May 2014	Against
Mr Ian and Mrs Margaret MacLean	Parkside, 3 Dunhallin, Waternish	7 May 2014	Against
Norman Gillies	12 Dunhallin	7 May 2014	Against
M Hand ?	1 Dunhallin	7 May 2014	Against
R Yarhall ?	2 Dunhallin	7 May 2014	Against
E Hulm ?	13 Dunhallin	7 May 2014	Against
Hilary Bumstead	19 Dunhallin	7 May 2014	Against
Tom and Norma Sparks	5 Dunhallin	7 May 2014	Against
Irene and Steve Lord	4A Dunhallin	14 May 2014	Against





REV B : 12/05/2014: Blue land ownership details amended
 REV A : 14/04/2014

Client: R. Mackinnon			
Project: Proposed house plot; land 35m South East of 4 Hallin, Waternish, Isle of Skye			
Drawing Title: SITE PLAN		Stage: PLANNING IN PRINCIPAL	
Scale: 1:250	Date: 12/05/2014	Rev: B	Drg.No. 2 of 2

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