

Agenda Item	7.6
Report No	PLN/031/22

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 26 April 2022

Report Title: 21/04622/FUL: Mr David MacDonald
Land 15M NW Of Lower Flat, Hill House, Stormy Hill Road, Portree

Report By: Area Planning Manager North

Purpose/Executive Summary

Description: Material change of use of existing Class 1 first floor to domestic Class 9 residential and proposed change of use of existing ground floor shop to beauty bar.

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Called in by members

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Recommendation

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

1. PROPOSED DEVELOPMENT

- 1.1 The application seeks full planning permission for the alteration and change of use of the upper floor of an existing retail unit into a permanent residential unit. Included in the application is the provision of an external staircase for accessing the first floor of the building. The application also includes the change of use of the ground floor from a retail unit into a beauty salon.

Under permitted development rights, as set out under the provisions of the Town and Country Planning General Permitted Development (Scotland) Order the change of use of the ground floor from a retail unit to a beauty salon in itself does not require planning permission as both uses fall within the same use class.

- 1.2 The building is connected to the existing mains sewage system.

- 1.3 Pre Application Consultation: None

- 1.4 Supporting Information: None

- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site consists of a detached retail unit of traditional appearance and build. The building is of stone construction with a corrugated tin roof. The building sits directly on the public footpath of Stormy Hill Road and on the junctions of Coolin Drive to the north and York Drive opposite. The southern boundary wall of the property forms the boundary with the neighbouring property known as 'Hill House'. The site lies adjacent to the boundary of Portree Conservation area.

3. PLANNING HISTORY

- 3.1 11.03.21 20/03497/FUL Change of use of first floor to class 9 residential and alterations to the building at Committee. Refused

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown neighbour

Date Advertised: 22.11.21

Representation deadline: 10.12.21

Timeous representations: 1 general comment from 1 household

Late representations: 1 support comment from the Community Council

- 4.2 Material considerations raised are summarised as follows:

a) None

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 Transport Planning: Objection

An objection has been received from the transport planning team with regards to the lack of parking provision for the proposed residential flat.

The Planning Application Form indicates that curtilage parking is not being promoted at this site. Wording on the Proposed Building Plans & Uses drawing states that "There are currently 4 parking spaces associate with the building and 3 parking spaces required for the proposed use of the ground and first floor. Therefore, the proposal raises no additional parking pressures locally." No information has been provided to show where the current 4 parking spaces are.

Transport Planning have assumed that the applicant is promoting on-street parking. However, on- street parking in the vicinity of this development is not something the Transport Planning Team can support.

Reason: The site is on the corner of the Stormy Hill Road junction with Coolin Drive and in close proximity to the Stormy Hill Road junction with York Drive. Any vehicles parked on-street in the vicinity of the junctions would obstruct a driver's forward visibility, impact on the free flow of traffic and safety of the travelling public. We accept that there is a retail shop on site and that customers may park on street infrequently during opening times. However, the flat occupiers and their visitor are likely to park on street during the day and overnight, thus increases the frequency and duration that parked vehicles will impact on other road users.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 34 - Settlement Development Areas
- 65 - Waste Water Treatment
- 66 - Surface Water Drainage

6.2 West Highland and Islands Local Development Plan 2019

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

- Encourage town centre expansion that respects the architectural, cultural and natural heritage of the conservation area, the Lump, other greenspaces and public vistas notably to the Cuillin mountains.
- Diversify the tourism offer of the historic, central part of the village, including land at Bayfield and the harbour.
- Consolidate the existing settlement area by promoting and supporting infill and redevelopment opportunities.

- Safeguard a route for the possibility of a longer term service access to the harbour from the A855 and around the south of the Lump.
- Safeguard land for a second phase of commercial and industrial expansion at Home Farm on the northern side of Portree.
- Preserve and extend Portree's green networks particularly its wooded river and burn sides.
- Completion of the Portree Link Road which will significantly enhance connectivity in the town and open up new housing and employment land for development.
- Improve public car parking and coach/bus drop-off provision within the village centre and encourage relocation of longer stay needs to more peripheral locations.

6.3 **Highland Council Supplementary Planning Policy Guidance**

Access to Single Houses and Small Housing Developments (May 2011)

Roads and Transport Guidelines for New Developments (2013)

Sustainable Design Guide (Jan 2013)

7. **OTHER MATERIAL POLICY CONSIDERATIONS**

7.1 **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (as amended December 2020)

Policy 60

Planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres. The planning system should:

- apply a town centre first policy 33 when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;
- encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;
- ensure development plans, decision-making and monitoring support successful town centres; and
- consider opportunities for promoting residential use within town centres where this fits with local need and demand.

National Planning Framework 3

Designing Streets

Creating Places

8. **PLANNING APPRAISAL**

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

Determining Issues

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

Planning Considerations

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) Planning history
 - c) Road safety
 - d) Visual impact
 - e) Neighbour amenity
 - f) Amenity of Occupants of the Proposal
 - g) Other material considerations.

Development plan/other planning policy

- 8.4 The property falls within the Settlement Development Area for Portree and so Policy 34 of the Highland-wide Local Development Plan applies. Policy 34 supports development proposals within Settlement Development Areas if they meet the Design for Sustainability requirements of Policy 28. Although policy 28 does not address road safety explicitly; all developments are expected to be compatible with roads provision. There is also a requirement to judge proposals in terms of how compatible they are with the existing pattern of development, impact on individual and community residential amenity 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.

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

8.5 Planning History

The application is a resubmission of application (20/03497/FUL) which was refused at North Planning Area Committee in March 2021. No changes have been proposed to address the Committee's reasons for refusal to this application. However, the applicants have added the change of use of the ground floor space from a retail use (Class 1) to a Beauty Salon (Class 1) as part of the description of development for this application. As set out in the introductory paragraph of the report both of these uses fall within the same use class of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and therefore the change does not require planning permission from the Planning Authority.

Use of the ground floor as a beauty salon can commence, subject to any other statutory requirements, at any time and could have already commenced quite lawfully in planning terms. The permitted development rights associated with the ground floor were discussed with the applicants and agent during the course of the

determination of the current application and also during the processing of the previous application. The agent requested the change of use of the ground floor remain in the description of the application despite being advised on a number of occasions that planning permission from the local authority was not required for this aspect.

8.6 Road Safety

As previously stated, no changes have been made to the proposed development which was subject to the previous application (20/03497/FUL) and which was refused planning permission in March 2021. The Committee's reason for refusal in respect of parking stated,

"The application is contrary to policies 28, 29 and 34 of the Highland Wide Local Development Plan as the proposed development fails to provide any on-site parking and turning for occupants of the proposed residential unit and their visitors. This would inevitably result in on-street parking in front of the property. Such parking would create a road hazard given the property's position close at the junctions of Stormy Hill Road with Coolin Drive and York Drive. Parked cars outside the building would reduce the visibility from these junctions and general road safety for other road users to an unacceptable degree".

It remains the case that no provision is being made for parking associated with the proposed change of use of the upper floor to an independent residential unit.

8.7 In accordance with current guidelines the proposed new residential unit requires a single parking space on site with adequate turning facilities to allow any vehicle to enter and leave the site safely in a forward gear.

No on-site parking provision is being provided as part of the application and so this makes the users of the residential unit reliant on on-road or public parking. As a private residential development, it is considered essential that parking and turning provision is provided within the site and that further pressure is not put upon the public car parking facilities within the town centre. The distance to the nearest public parking would suggest that this option is unlikely to be chosen in preference to on-road parking outside the building.

The Transport Planning Team in their consultation response have clearly set out the road safety concerns associated with on street parking in this location. The site is on the corner of the Stormy Hill Road junction with Coolin Drive and in close proximity to the Stormy Hill Road junction with York Drive. Any vehicles parked on-street in the vicinity of the junctions would obstruct a driver's forward visibility and negatively impact on the free flow of traffic and safety of the travelling public. It is accepted by the Transport Planning Team that customers using the ground floor may park on street outside the premises, although this is likely to be infrequently during opening times. However, the flat occupiers and their visitor are likely to park on street during the day and overnight, thus increases the frequency and duration of parked vehicles outside the building. This will reduce the visibility from the road junction and impact on general road safety for other road users to an unacceptable degree.

8.8 It was suggested to the agent that if the occupation of the proposed upper floor flat were to be restricted to staff accommodation associated with the ground floor business only, then there would technically be no increase in parking requirements during business hours. Although there would still be on-street parking outwith business hours, the general reduction in on-street parking would be considered, on balance, to have overcome the parking reason for refusal. This could have been conditioned as part of any consent which limited the upper floor flat to be used as accommodation for a full-time member of staff of the ground floor business only. This proposal was rejected by the applicant.

8.9 **Visual Impact**

The application includes the erection of an external staircase to allow access into the proposed upper floor flat. The stair is to be constructed of galvanised metal and its skeletal structure provides an acceptable visual impact on the surrounding streetscape.

The only other changes to the visual appearance of the building are the inclusion of two roof lights on each face of the roof and the enlargement of a window on the southern gable. The changes are considered to be minimal and raise no concerns in terms of their visual impact on the building or the surrounding landscape.

8.10 **Neighbour Amenity**

As previously stated, the proposed development is for the same development as set out in planning application 20/03497/FUL which includes the enlargement of the window on the southern gable. Committee's previous decision included the following reason for refusal,

"The application is contrary to Policies 28 and 34 of the Highland Wide Local Development Plan as the proposed development would have an adverse impact on the amenity of the neighbouring property 'Hill House' through overlooking from the proposed upper floor window in the southern gable. This would significantly and unacceptably reduce the level of privacy currently enjoyed within the rear garden area of Hill House and introduce inter-visibility between neighbouring windows in close proximity."

This feature window will serve the living room/kitchen of the proposed upper floor residential unit. The southern gable of the building sits on the boundary with the neighbouring property known as 'Hill House'. The inclusion of this window would enable occupiers of the proposed residential unit to have a direct view into the rear amenity space of Hill House and also indirect views into a window at ground floor level on the northern gable of this neighbour. The separation distance to this window from the gable of the building is approximately 10 metres. The overlooking impact on neighbour amenity is considered unacceptable.

As discussed with the agent during the previous application, the window could either be replaced with an amended rooflight arrangement or made the subject of a condition that it be installed with frosted glazing to prevent the overlooking. Alternatively it could have been repositioned on the other gable. This would have overcome the reason for refusal, but the suggestion was declined by the applicants.

8.11 **Amenity of Occupants of the Proposal**

As previously stated, no changes to the development which was refused under planning application 20/03497/FUL have been made in the current application. Committee's previous decision included the following condition,

"The application is contrary to Policy 28 of the Highland Wide Local Development Plan by virtue of the lack of provision of any amenity space and on-site parking for the occupants of the proposed residential unit. They are also likely to suffer negative impact on their amenity from the intrusive relationship with the neighbouring property to the south created by the new gable window. The unacceptably low levels of amenity the proposal offers to occupants as a result of these matters is considered to be manifestations of an overdevelopment of the site".

The site is small with no curtilage, and this results in there being no opportunity for the inclusion of any of the normal amenity space associated with a residential property. The intensification in the use of the property represented by the creation of a new residential unit creates a demand for amenity/garden space and parking which cannot be satisfied. Due to these factors the use of the upper floor as a residential unit is considered to be an overdevelopment of the site.

Other material considerations

8.12 **Developer Contributions:**

The inclusion of a residential unit within the catchment area of Portree Primary School requires a developer contribution to be made. As this proposal is for a one bedroomed property these are exempt from making any education contributions. Therefore, no developer contributions towards secondary education at Portree High School or primary education at Portree Primary are required. The one bedroomed flat proposed does not trigger the requirement for affordable housing contribution or community facilities contribution as outlined in the Developer Contributions Supplementary Guidance November 2018.

Non-material considerations

8.13 The issue of the change of use of the ground floor is not a material planning consideration as there is no material change proposed and planning permission is not required for changes of use within the same Use Class.

8.14 Comments have been received from one objector regarding the red line shown on the location plan is encroaching onto their land title. The red line designates a development area and not land ownership.

Support comments from the community council have also been received but these relate to the use of the ground floor of the property and not the upper floor of the property which is the consideration of this application.

9. CONCLUSION

- 9.1 The application is a resubmission of a development which was previously considered and refused by the North Planning Application Committee in March 2021. There has been no change to the development plan policies against which the application requires to be assessed or the characteristics of the site in the intervening time period.

Whilst the Planning Service is supportive of the principle of the provision of residential uses within town centre locations this should not be at the detriment of road safety or the residential amenity of others. It is considered that providing a residential unit with no on-site parking provision or amenity space represents an overdevelopment of the site which will have a negative impact on road safety by causing users to park on the road in close proximity to two road junctions.

The proposed gable window would create an unacceptable overlooking issue and loss of privacy to the neighbouring property. It would also contribute to a poor level of amenity for the occupants of the proposal.

The lack of amenity space and on-site parking is considered to represent an unacceptably low level of amenity for future occupants and further indicates that the proposal represents an overdevelopment of the site.

It is disappointing that in spite of suggestions as to how the Planning Services concerns could be overcome, the applicants have declined to pursue these. Regrettably the recommendation is to refuse for the same three reasons for refusal agreed by the Committee in March 2021. It is not considered that there have been any material changes in circumstances since the previous application was considered to warrant support for this scheme.

- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of 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

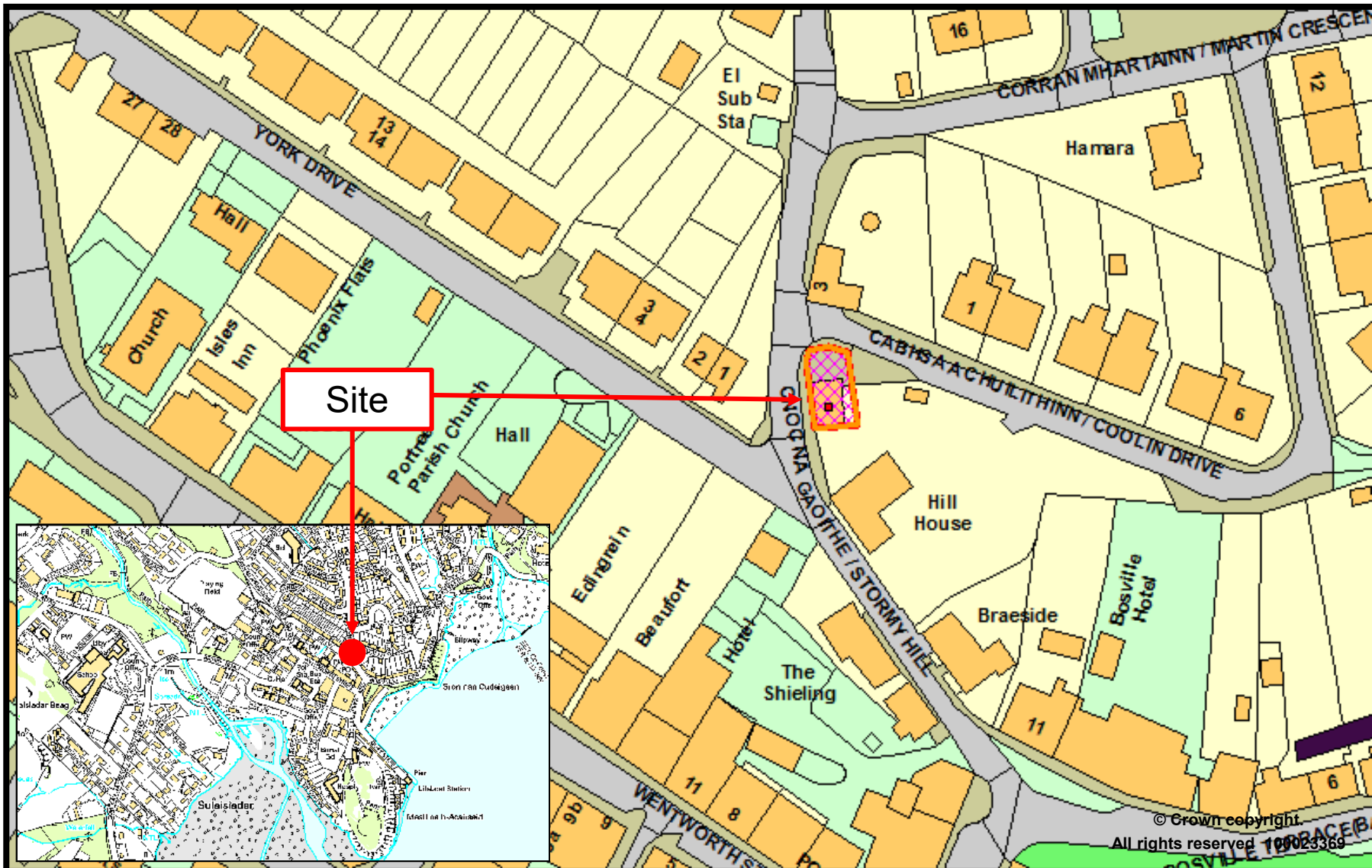
Subject to the above actions, it is recommended to **REFUSE** the application for the following reasons

1. The application is contrary to policies 28, 29 and 34 of the Highland Wide Local Development Plan as the proposed development fails to provide any on-site parking and turning for occupants of the proposed residential unit and their visitors. This would inevitably result in on-street parking in front of the property. Such parking would create a road hazard given the property's position close at the junctions of Stormy Hill Road with Coolin Drive and York Drive. Parked cars outside the building would reduce the visibility from these junctions and general road safety for other road users to an unacceptable degree.
2. The application is contrary to Policies 28 and 34 of the Highland Wide Local Development Plan as the proposed development would have an adverse impact on the amenity of the neighbouring property 'Hill House' through overlooking from the proposed upper floor window in the southern gable. This would significantly and unacceptably reduce the level of privacy currently enjoyed within the rear garden area of Hill House and introduce inter-visibility between neighbouring windows in close proximity.
3. The application is contrary to Policy 28 of the Highland Wide Local Development Plan by virtue of the lack of provision of any amenity space and on-site parking for the occupants of the proposed residential unit. They are also likely to suffer negative impact on their amenity from the intrusive relationship with the neighbouring property to the south created by the new gable window. The unacceptably low levels of amenity the proposal offers to occupants as a result of these matters is considered to be manifestations of an overdevelopment of the site.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

Designation: Area Planning Manager – North Developments
 Author: Chris Hallas
 Background Papers: Documents referred to in report and in case file.
 Relevant Plans: Plan 1 - Location Plan – 1 Rev B
 Plan 2 - General Plan – 000002 Rev C



The Highland Council
Comhairle na Gàidhealtachd

Planning and Development Service

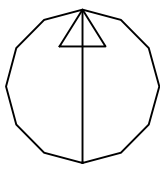
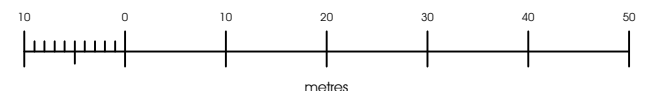
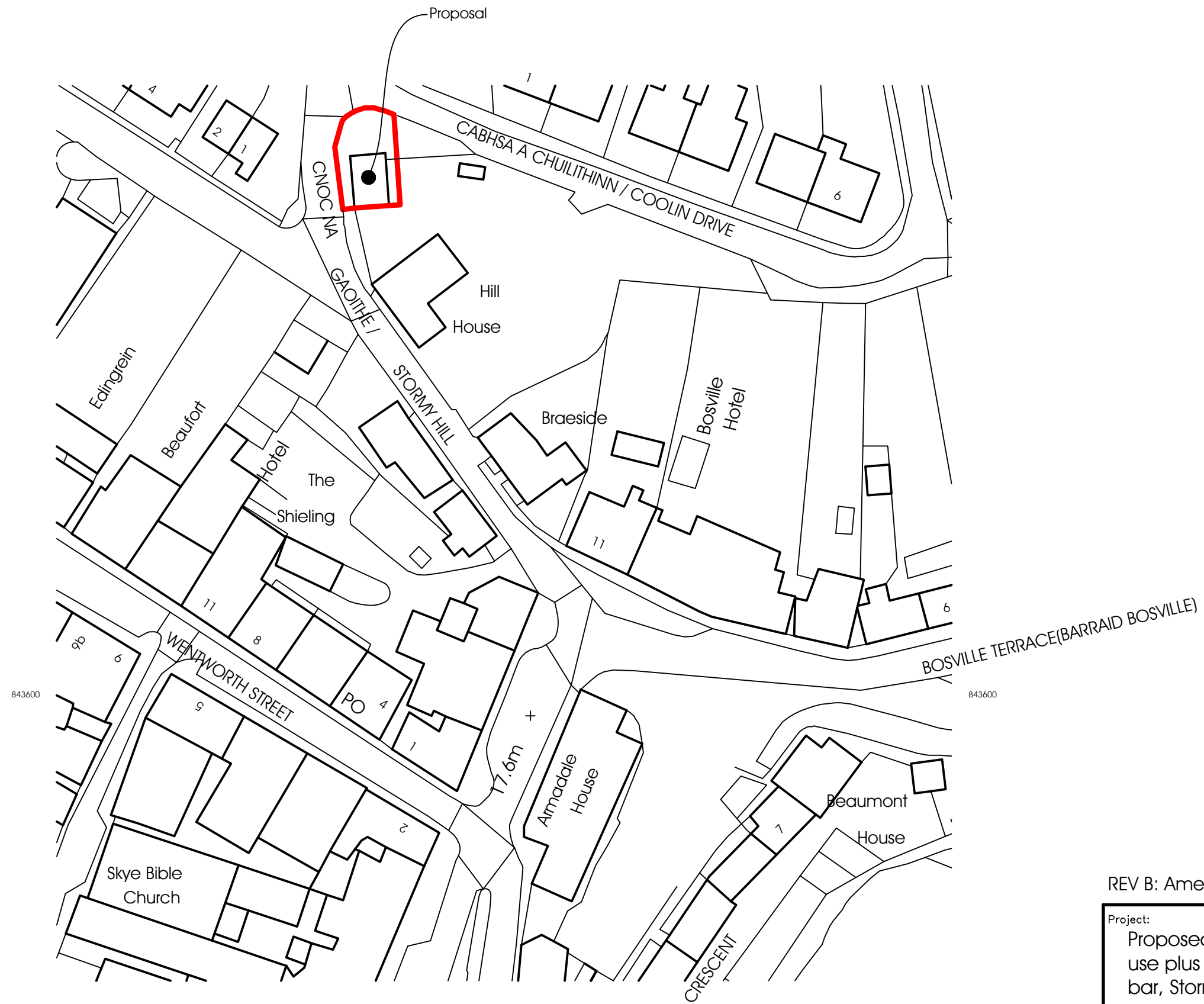
Location Plan
21/04622/FUL

Material change of use of existing Class 1 first floor to domestic Class 9 residential and proposed change of use of existing ground floor shop to beauty bar

April 2022



Scale:

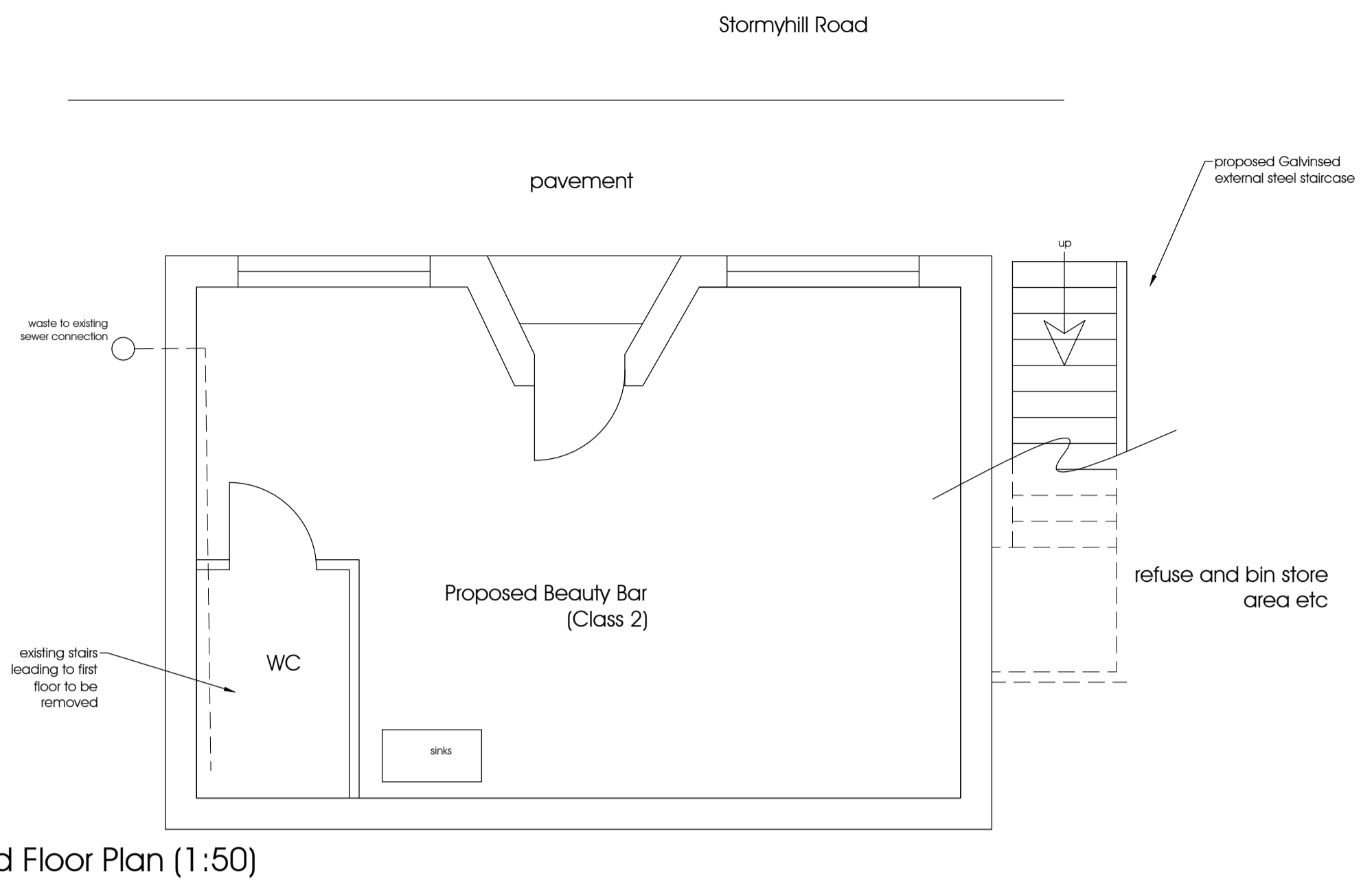


REV B: Amended description plus redline

Project: Proposed change of use of first floor to residential use plus change of use of ground floor to beauty bar, Stormy Hill Stores, Portree				A3
Drawing Title: SITEPLAN		Stage: PLANNING		
Scale: 1:750 – A3	Date: 28/09/2021	Rev: B	Drg.No. 1	



Ben Wear (MEng)
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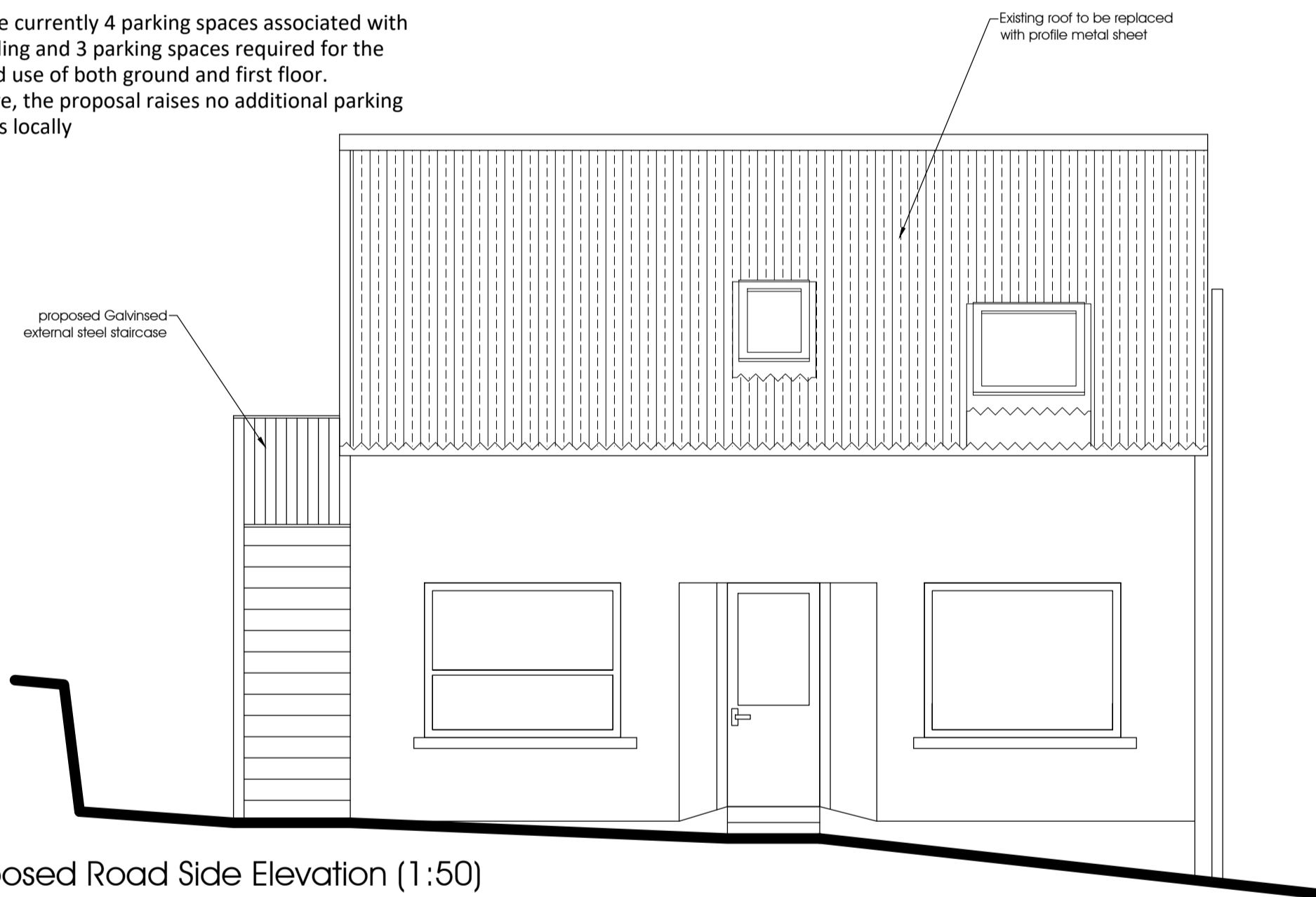


Proposed Ground Floor Plan (1:50)

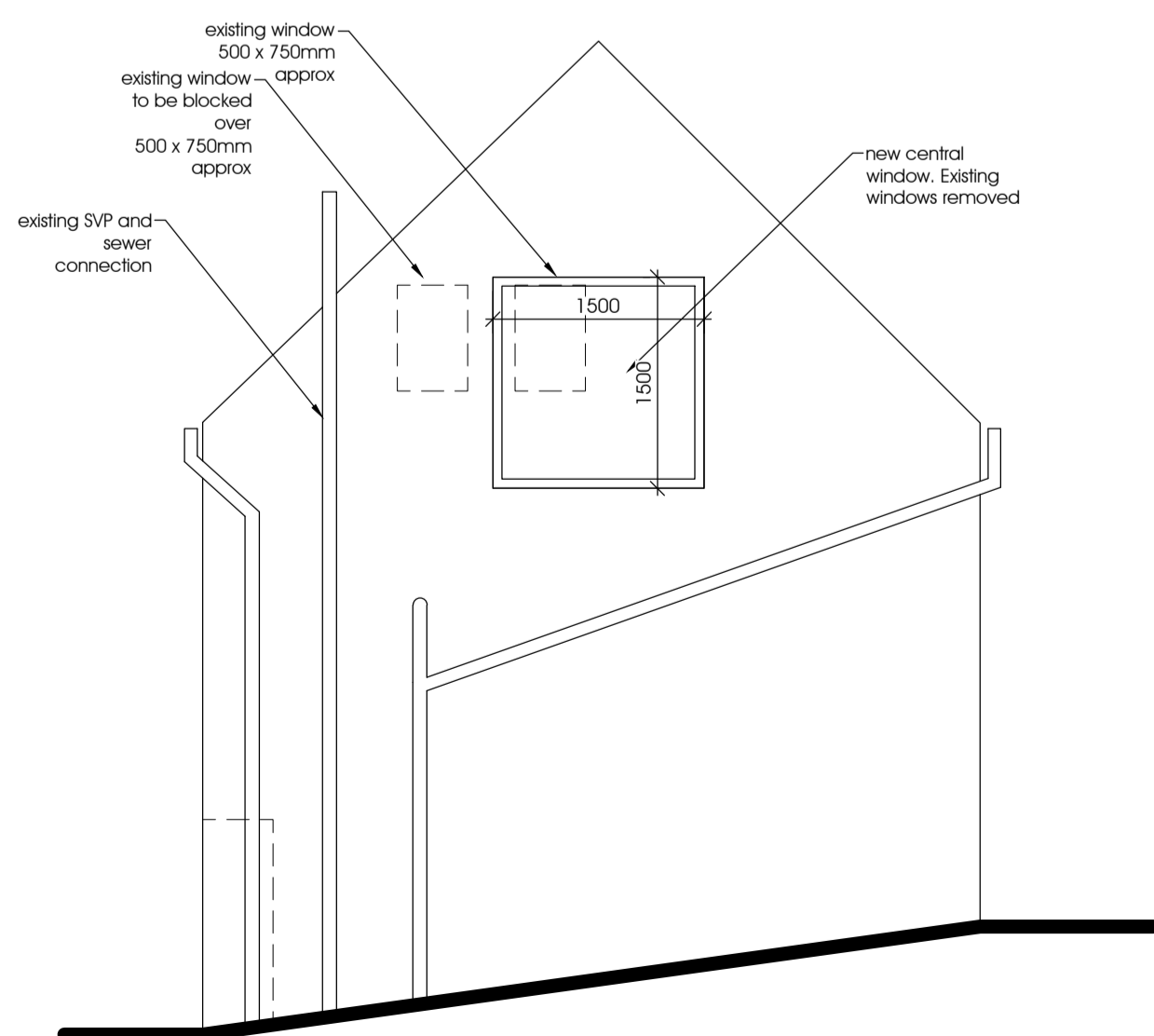
Existing Retail Unit / Class 1 food and proposed change of use to beauty bar
Total ground floor area approx 35m² as existing

Council parking requirements:
1 space per 14m² for retail (food) = 3 spaces
staff assumed = 1 space
1 space per 20m² for non food = 2 spaces
Proposed Studio/flat = 1 parking space

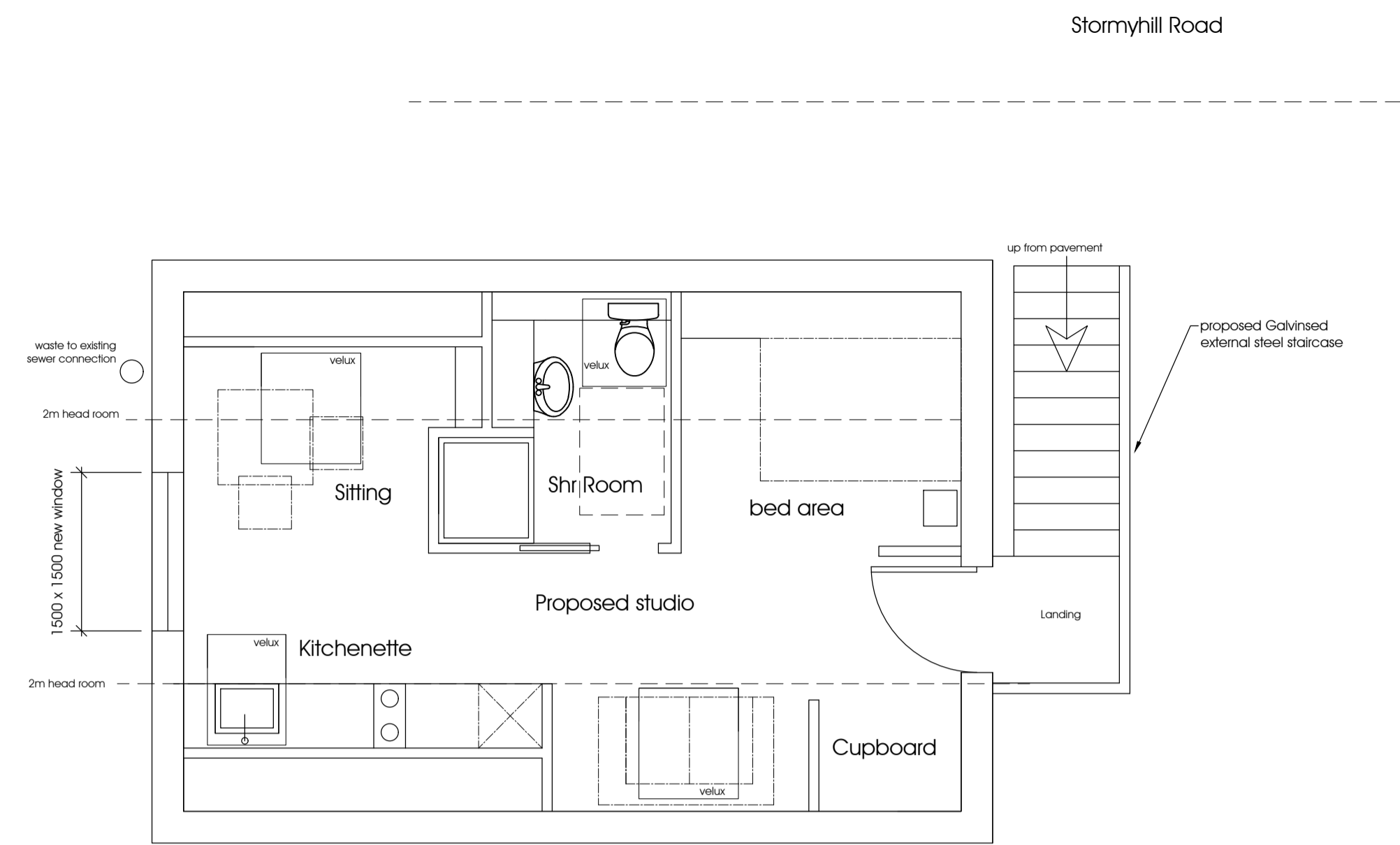
There are currently 4 parking spaces associated with the building and 3 parking spaces required for the proposed use of both ground and first floor.
Therefore, the proposal raises no additional parking pressures locally



Proposed Road Side Elevation (1:50)

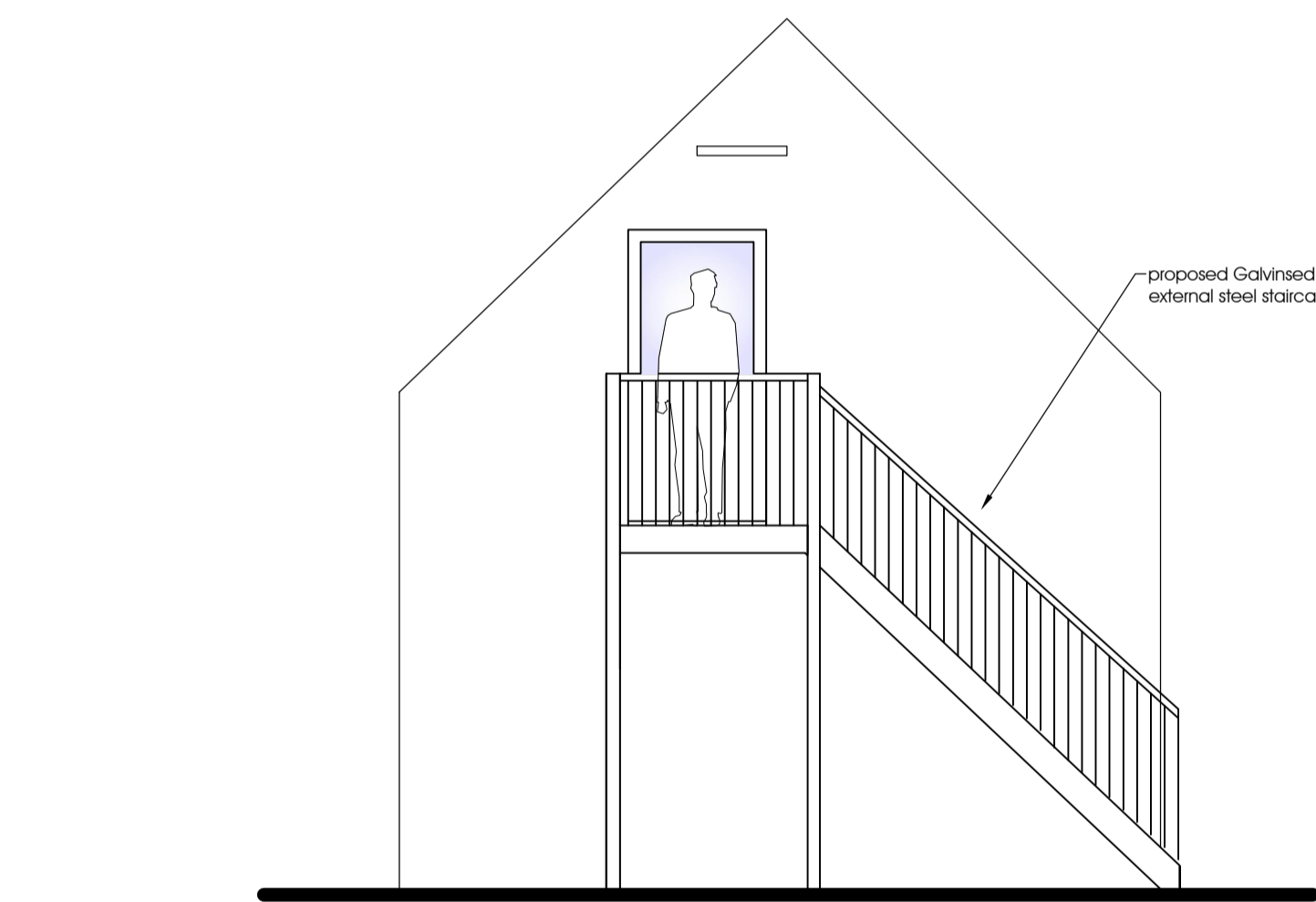


Proposed South Facing Gable Elevation (1:50)

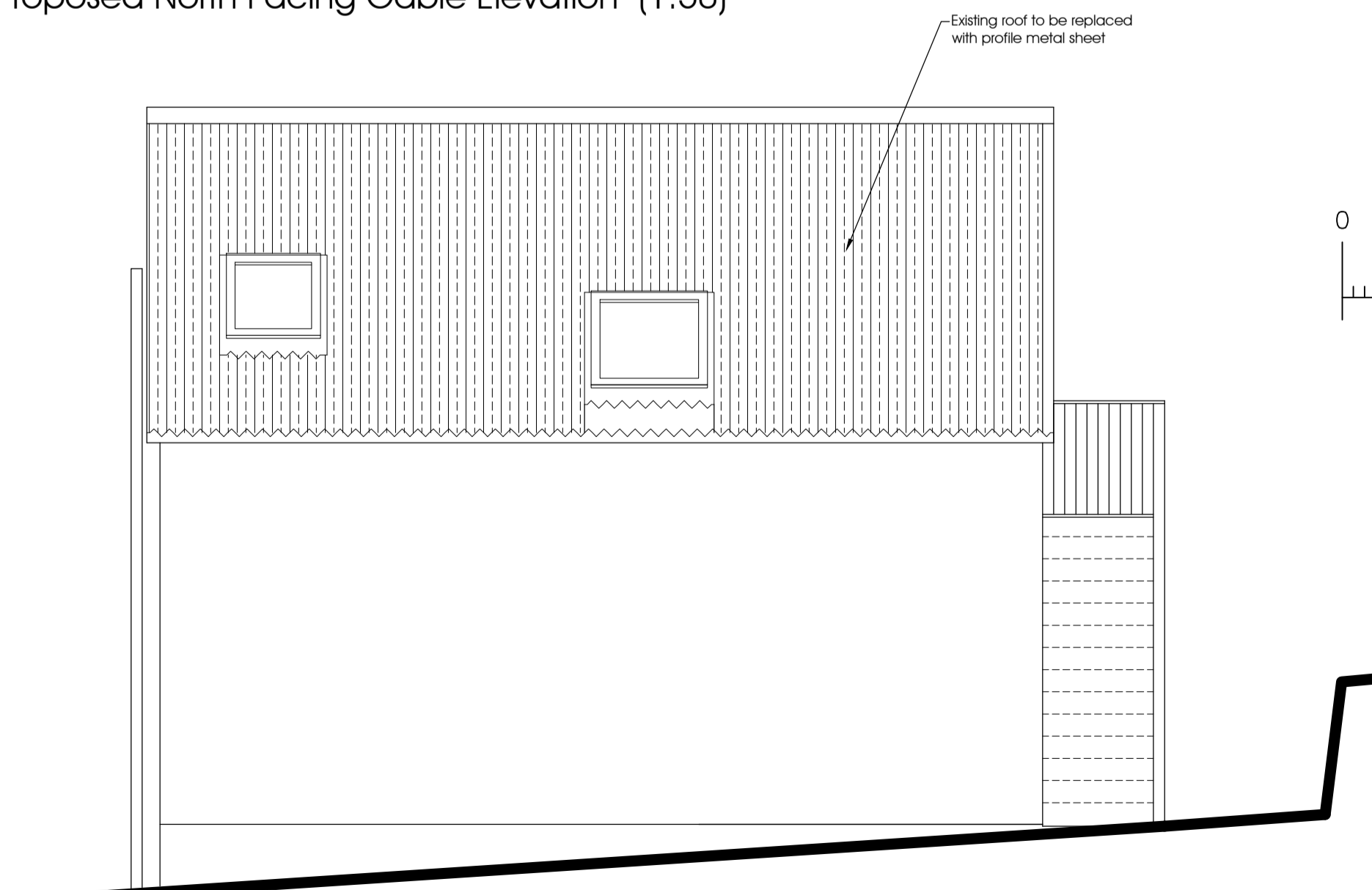


Proposed First Floor / Domestic (1:50)

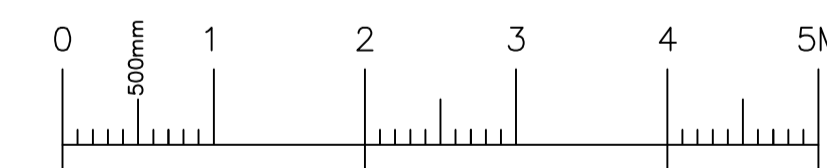
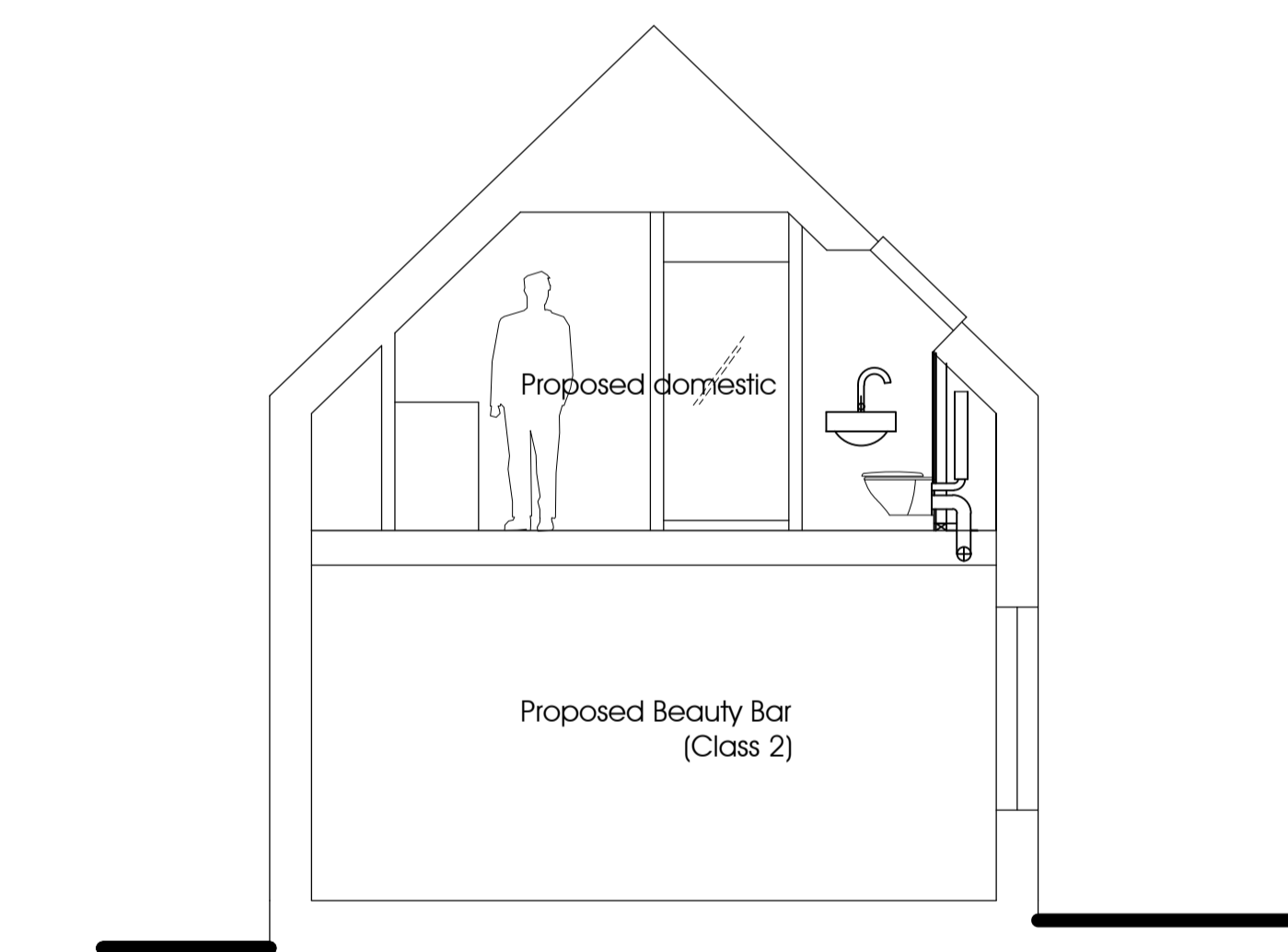
Existing Retail Unit / Class 1 food and proposed change of use to domestic



Proposed North Facing Gable Elevation (1:50)



Proposed Rear Elevation (1:50)



METRES (scale @ 1:50)

REV C: 10/11/2021 Ground floor drainage added
REV B: amended description
REV A: submitted for planning

Client:	Mr David MacDonald	Date:	10/11/2021
Rev:	c		

Project:
Proposed change of use of first floor to residential plus change of use of ground floor to beauty bar, Stormy Hill Stores, Portree A1

Drawing Title	PROPOSED BUILDING PLANS & USES	Status	PLANNING
Scale:	1:50		