

Agenda Item	6.11
Report No	PLN/016/24

## HIGHLAND COUNCIL

**Committee:** North Planning Applications Committee  
**Date:** 30 January 2024  
**Report Title:** 20/01581/FUL : Patrick and Maya Kurtz  
 Skyefall Struan Isle of Skye IV56 8FA  
**Report By:** Area Planning Manager – North

### Purpose/Executive Summary

**Description:** Erection of house and formation of access  
**Ward:** 10- Eilean A' Cheò  
**Development category:** Local  
**Reason referred to Committee:** Called in by two Ward Members

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.

Delete as appropriate

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 Planning consent is sought for a two storey dwellinghouse. The design is based around a rectangular footprint which includes a two storey projecting bay window and a single storey extension with a balcony area above. Proposed external materials consist of natural slate and white or off white painted cement render. Engineering and landscaping works include lowering the ground level across the footprint of the house and the surrounding land by approximately one metre and deposited this spoil elsewhere on the site to provide a more uniformed ground level along with tree planting around the edge of the application site. The proposed development includes the formation of an access driveway, parking area and the installation of a private foul drainage system.
- 1.2 There is an existing agricultural access gate located in the south east corner of the site which has a dropped kerb and provides direct access onto the A863. There is no other infrastructure on the site.
- 1.3 Pre Application Consultation: None.
- 1.4 Supporting Information: None
- 1.5 Variations: None

**2. SITE DESCRIPTION**

- 2.1 The application site is located to the east of the ‘C’ listed Old Manse building at Struan. The land is rough grazing land, which is elevated in relation to the Old Manse and the A863 public road. Access to the site is via an existing agricultural access gate which is located next to the eastern boundary wall of the Manse and within the south east corner of the site. Visibility to the east along the A863 is severely compromised by the existing land form. The derelict remains of a stone byre are located close to the entrance gate in the south east corner of the site. The nearest neighbouring properties are The Old Manse to the west and the Ardstruan housing development to the east. The latter lies at a lower level several metres below the application site. The property known as the former Free Church Manse 6 Balgown lies on the opposite side of the public road.
- 2.2 The site as a whole extends to 0.4Ha, the development area of the proposed house and parking area would cover approximately 720 m<sup>2</sup> and consists of a proportion of the site which has a naturally higher ground level than the surround land and which lies closest to the southern edge of the site above a rocky outcrop fronting the northern side of the A863. The rocky outcrop is approximately 6m in height.

**3. PLANNING HISTORY**

3.1	19.03.2020	19/01386/FUL- Erection of dwellinghouse	WITHDRAWN
3.2	01.05.2015	15/00976/PIP- Erection of house	APPROVED
3.3	23.12.2014	14/04113/PIP0 Erection of 2 dwellinghouses	WITHDRAWN
3.4	23.12.2009	09/00368/PIPSL – Erection of house	APPROVED
3.5	21.10.2009	09/00270/PIPSL - Erection of house	WITHDRAWN
3.6	02.11.2005	05/00200/OUTSL- Erection of house	APPPROVED
3.7	23.12.2009	09/00360/LBCSL Demolition and rebuild of boundary stone wall ( The Old Manse)	Approved

**4. PUBLIC PARTICIPATION**

- 4.1 Advertised: Unknown Neighbour & setting of listed building  
Date Advertised: 01.05.2020  
Representation deadline: 15.05.2020  
Timeous representations:  
Late representations: Two representations from two households
- 4.2 Material considerations raised are summarised as follows:
- a) Impact on residential amenity of 6 Balgown as a result of overlooking and noise
  - b) Impact on road safety
  - c) Impact of the development on the character of the area, due to the siting and design of the proposed house.
  - d) Impact on the setting of the Old Manse
- 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).

## 5. CONSULTATIONS

- 5.1 **Historic Environment Team** – No objection. Condition to be attached to record the ruinous building on site.
- 5.2 **Access Officer** - No objections or comment
- 5.3 **Transport Planning Team** - Additional information required to ensure that there is no detrimental impact on the public road and road safety.
- 5.4 **Scottish Water** – No objection. Applicant should submit a pre development enquiry as we are unable to confirm the capacity of Struan Waste Water Treatment Works. There is sufficient capacity in Bracadale Water Treatment works to service this development.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

- 6.1 National Planning Framework 4 (Feb 2023)
- 01 - Tackling the climate and nature crises
  - 02 - Climate mitigation and adaptation
  - 03 - Biodiversity
  - 04 - Soils
  - 07 - Historic assets and places
  - 14 - Design, quality and place
  - 17- Rural Homes
- 6.1 **Highland Wide Local Development Plan 2012 (HwLDP)**
- 28 - Sustainable Design
  - 29 - Design Quality & Place-making
  - 31 - Developer Contributions
  - 36 - Development in the Wider Countryside

6.2 **West Highland and Island Local Development Plan 2019 Plan**

No specific policies apply

7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance**

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

Developer Contributions (March 2013)

Housing in the Countryside and Siting and Design (March 2013)

7.2 **Scottish Government Planning Policy and Guidance**

Refer to NPF 4

8. **PLANNING APPRAISAL**

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

Determining Issues

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

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) siting and design
- c) impact on residential amenity
- d) impact on setting of listed building

Development plan/other planning policy

8.4 All planning applications must now be determined in accordance with the provisions of NPF 4 and the existing Local Development Plan, unless material considerations provide justification otherwise. If there is an inconsistency between NPF4 policies and an LDP which was adopted before 13 February 2023, the NPF prevails under Section 24(3) of the 1997 Town and Country Planning (Scotland) Act 1997 (as amended). The Highland wide Local Development Plan ( HwLDP) and the West Highland and Island Local Development Plan ( West Pan) remain material considerations in the determination of the application.

8.5 The village of Struan is not identified as a main or growing settlement in the West Plan and therefore development within the village requires to be assessed against development plan policies which relate to rural housing development. It is recognised that there is an inconsistency between policy 17 of NPF 4 and policy 36 of the HWLDP, as policy 17 is more prescriptive. However, whilst policy 17 sets out acceptable development types it also underlines that all new homes in rural areas

must be suitably scaled, sited and designed to be in keeping with the character of the area. This policy intent is also reflected in policy 14 (Design, quality and place) of NPF4 which states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals that are poorly designed and/or detrimental to the amenity of the surrounding area will not be supported. Policy 36 of the HwLDP requires development to achieve acceptable siting and design, recognising the existing settlement pattern to allow compatibility with landscape character and capacity.

- 8.6 Policy 28 (Sustainable Design) of the HwLDP assesses proposals against a number of criteria including their impact on individual and community residential amenity, demonstration of sensitive siting and high-quality design in keeping with local character and how they contribute to the economic and social development of the community. Proposals which are considered to have an adverse impact on local amenity and character cannot be considered to comply with Policy 28 and cannot be supported.

Policy 7 of NFP4 and policy 57 of the HwLDP set out the importance of new development respecting the setting of historical assets.

#### Siting and Design

- 8.7 The principal of development on this area of land that lies to the east of the Old Manse has previously been accepted. As far back as 2005 planning permission in principle was granted for the erection of a house and in 2009 listed building consent was granted and implemented to allow a section of the boundary wall of the Old Manse to be taking down and rebuilt to facilitate an access into the land. The 2005 and 2009 consents envisaged a house on the site of the derelict byre which is located approximately 5.5m east of the boundary wall with the Old Manse and at a similar level to it.

In 2015, a further planning permission in principal was issued for the erection of a house, Ref 15/00967/PIP. The indicative site plan associated with that permission indicated the house occupying the land above the derelict byre – similar to the current application. The conditions attached to the consent required the house to be single storey and to occupy an area of the site set back from the edge of the rock face, which demarks the southern boundary. The justification for imposing these conditions were that given the very elevated position of the site, which lies at least 5m above the level of the public road and the neighbouring properties and the proximity of the development to the Old Manse which is a category B listed building, a larger scaled property would have too great a visual impact and would be out of keeping with the character of the area.

- 8.8 The current applicant lodged an application in 2019 for the erection of a two storey house, as such the submission could not be assessed as an application for the approval of matters specified in conditions of planning permission 15/00976/PIP. The scale, siting and design of the proposal were judged not to be acceptable, and the applicant was advised that the planning service would be unable to support the application. At the time the applicant was advised to bring forward a proposal which achieved the conditions attached to the planning permission in principal and thereby respond to the very exposed and elevated nature of the site and the need to protect the setting of the Old Manse and the amenity of the surrounding houses.

Application 19/101386/FUL was withdrawn in March 2020 at the same time as the

current application was submitted. Regrettably, the applicant chose not to take on board the advice offered by the planning service and another two storey proposal, sited on the most elevated part of the site, has been brought forward. The house has a ridge height of 6.5m, or thereby, with a two storey projecting bay window feature on the southern elevation and a raised balcony at first floor level on the east elevation. On the western elevation is large porch. The external materials are shown as natural slate with a white or off white painted cement render. It is noted that the site layout plan indicates that the existing ground level over the footprint of the house will be lowered by 1.1m so that, according to the applicant, the house is no higher than the ridge height of the Old Manse.

It is considered that, notwithstanding the change in design from that submitted with application 19/01386/FUL, the current proposals represent unacceptable development. The house is not suitably scaled or sited and consequently has a significant visual impact. The highly exposed and visually prominent nature of the site is such that the two-storey design of the house is not appropriate for this location. The development is therefore not considered to accord with the policies 14 and 17 of NPF 4 or policies 28 and 36 of the HwLDP.

- 8.9 The planning service advised the applicant of their concerns regarding the current proposals in June and again in July 2020, the initial time delay was due to the case officer being unable to visit the site as a consequence of the Covid pandemic. The applicant was invited to submit amended plans to the current proposals, which would move the house into an area of the site covered by the previous planning permission in principle which has a lower ground level. The proposed revisions would increase the separation distance from the Manse, reduce the public views from a westerly direction, remove the bay window two storey projection from the southern elevation and remove the side balcony element to protect the amenity of the properties in Ardstruan.

In September 2020 the planning service received a communication from the applicants' agent indicating that he would no longer be representing the applicant. No information was submitted in connection with the application until an email was received by the case officer, at that time, from the applicant in August 2021. In June 2022 the applicant lodged a complaint regarding the manner in which his applications have been dealt with. In response, an apology was issued as the previous communication had not been responded to. The applicant was also advised to submit revised plans which accorded with the parameters of the planning permission in principle 15/00967/PIP and concluded that, should a revised proposed be prepared which met the conditions imposed regarding the siting, layout and design the house, the planning service would be in a position to offer support to the development. Despite the planning service contacting the applicant on several occasions since then to seek confirmation as to how he wished to proceed, it was not until May 2023, 11 months after the last contact by the planning service that the applicant responded. In May 2023 the applicant informally submitted a set of amended plans. The plans did not respond to the previous comments and advice offered. Since May 2023 the planning service has issued two further emails requesting confirmation as to how the applicant wished to take the application forward. Regrettably no response has been received.

#### Other material considerations

### Neighbouring Amenity

- 8.10 It is acknowledged that due to the siting and in particular the two storey design there is likely to be a degree of loss of amenity to the neighbouring properties; the Old Manse, the houses at Ardstraun and also the former Free church Manse, 6 Balgown which lies on the opposite side of the public road. Although there are sufficient separation distances between habitable windows there would be a degree of overlooking of the garden grounds of these properties. However, is not considered that the loss of residential amenity on its own warrants' refusal of the application.

### Impact on the setting of the Old Manse

- 8.11 Policy 7 of NPF 4 recognises the importance of protecting the setting of listed buildings. As such there is compatibility with the policies of the HwLDP which also seek to protect and enhance the historic environment assets and places. As set out above it is considered that the proposed siting and design of house is inappropriate for this very exposed and highly visible site. It follows that a house of the design and siting proposed would introduce an incongruous development adjacent to the Old Manse which would detract from the setting of this locally important listed building. It is considered that the proposals fails to meet the policy intent and outcomes as set out in policy 7 of NPF4 and policy 57 of the HwLDP.

### Access and parking

- 8.12 The proposed means of access to the site is consistent with that previously approved under the planning permission in principal ref 15/00976/PIP. The proposal being, the closure of the existing access onto the public road and the formation of a new section of driveway that would link to the driveway that serves the Old Manse. There is more than ample room to accommodate parking within the site. The access and parking arrangements are considered acceptable.

### Water and Drainage

- 8.13 Scottish Water confirmed that there is sufficient capacity in the Bracadale Water Treatment Works to service the proposed development. With respect to the foul drainage, the application includes details of a private drainage system consisting of the chamber septic tank and soakaway. There is sufficient room within the application site to accommodate this element of the development. It is also noted that Scottish Water have indicated that the site could be served by Straun Wastewater Treatment Works, although they are unable to confirm capacity.

### Developer Contributions

- 8.14 In accordance with Policy 31, the Council's [Developer Contributions Supplementary Guidance](#) is used to determine which proposals have to make proportionate financial developer contributions towards meeting service and infrastructure needs in areas of Highland where clear deficiencies are identified. There are no school capacity constraints or other infrastructure needs for which a developer contribution is required.

## **9. CONCLUSION**

- 9.1 Since this planning application was registered NPF 4 has become part of the Development Plan. The key relevant policies of NPF4 place significant weight on the desirability of development making a positive contribution in terms of their siting,

design and visual impact as well as protecting the setting of historical assets.

- 9.2 It is considered that the development fails to satisfy the policy intent and outcomes of NPF 4 and those relevant policies of the Highland wide Local Development Plan.
- 9.3 The proposal is contrary to the provisions of NPF4 Policy 14(c), policy 17 and HwDLP policies 28 and 36 in that the proposal fails to be suitably scaled, sited and designed to be in keeping with the character of the area and is considered detrimental to the amenity of the surround area.
- 9.4 The proposal is contrary to the provision of NPF4 policy 7 and HwLDP 57 as the siting and design will have a negative impact on the setting of the adjacent Listed Building.
- 9.5 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**

The application is recommended for refusal for the reasons set out below.



## Reasons for Refusal

1.	The proposal is contrary to the provisions of National Planning Framework 4 Policy 14 (c) in that the proposal is poorly sited and designed to be in keeping with the surrounding area. The design of house proposed is not suitably scaled or sited and consequently has a significant visual impact. The highly exposed and visually prominent nature of the site is such that the two storey scale, and the design and massing of the proposed house is not in keeping with the surrounding area.
2.	The proposal is contrary to the provisions of National Planning Framework 4 Policy 17 in that the design of house proposed is not suitably scaled or sited and consequently has a significant visual impact. The highly exposed and visually prominent nature of the site is such that the two storey scale, and the design and massing of the proposed house is not in keeping with the character of the area.
3.	The proposal is contrary to the provisions of National Planning Framework 4 Policy 7 in that the highly exposed and visually prominent nature of the site is such that the two storey scale ,and the design and massing of the proposed house fails to take account of the setting of the adjacent listed building.
4.	The proposal is contrary to the provisions of Highland-wide Local Development Plan Policy 28, in that design of house proposed is not suitably scaled or sited and consequently has a significant visual impact. The highly exposed and visually prominent nature of the site is such that the two storey scale and the design and massing of the proposed house fails to demonstrate sensitive siting and high quality design which is compatible and in keeping with the local character of Struan.
5.	The proposal is contrary to the provisions of Highland-wide Local Development Plan Policy 36 in that the two storey scale and the design and massing of the proposed house and the highly exposed and visually prominent nature of the site is unsympathetic to the existing pattern of development and is incompatible with the landscape character and capacity of Struan.
6.	The proposal is contrary to the provisions of Highland-wide Local Development Plan Policy 57 in that in that the highly exposed and visually prominent nature of the site is such that the two storey scale and the design and massing of the proposed house fails to demonstrate sensitive siting and high quality design which preserves the setting of the adjacent listed building.

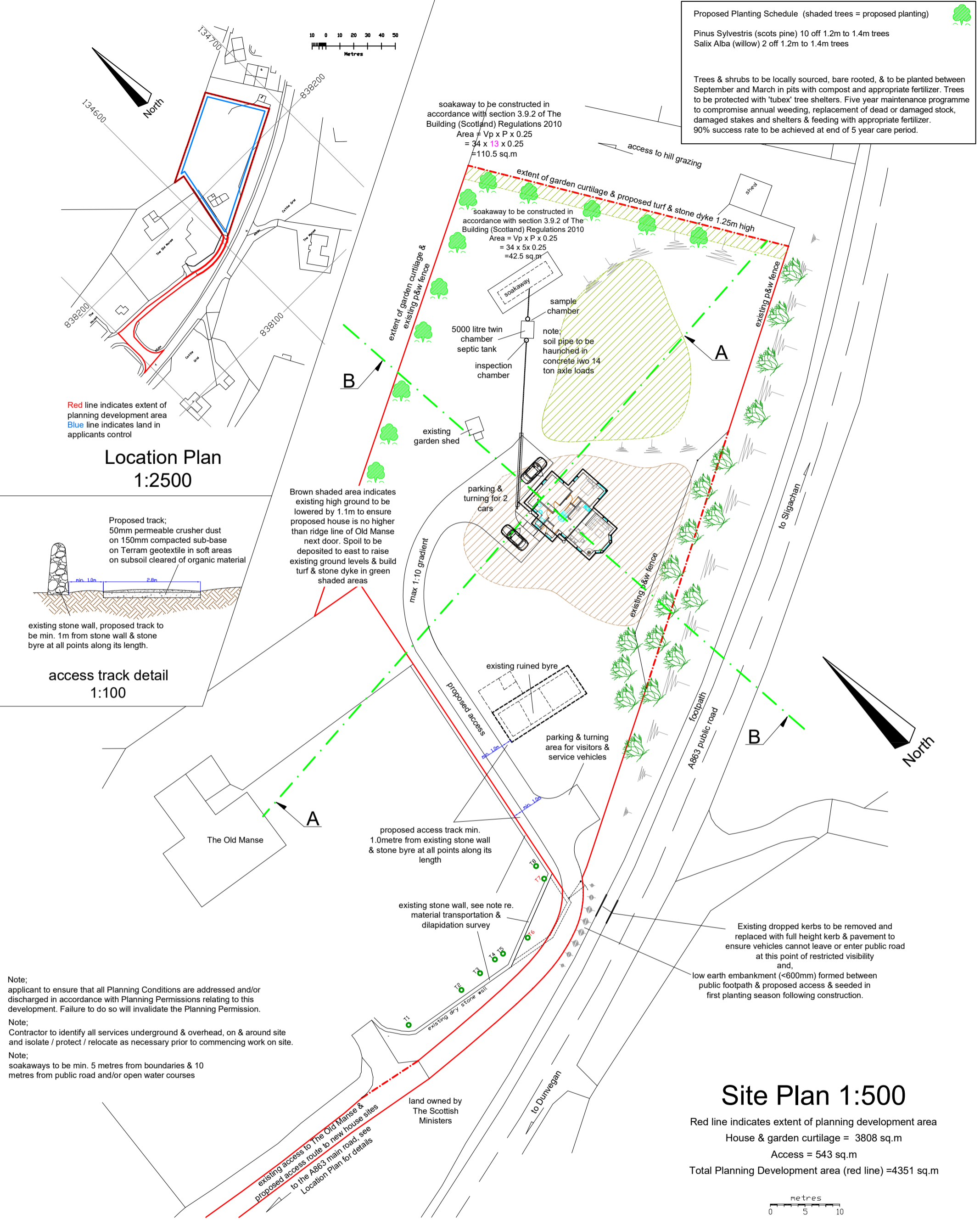
Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Erica McArthur/ Mark Harvey  
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - JG4444 REV 01 Location Plan  
Plan 2 - J G4446 REV 01 Elevations  
Plan 3 - JG4447 REV 01 Ground Floor Plan  
Plan 4 - JG4448 REV 01 First Floor Plan  
Plan 5 - JG4445 REV 01 Site Section  
Plan 6 - JG4449 REV 01 Section plan

**Proposed Planting Schedule** (shaded trees = proposed planting)

Pinus Sylvestris (scots pine) 10 off 1.2m to 1.4m trees  
 Salix Alba (willow) 2 off 1.2m to 1.4m trees

Trees & shrubs to be locally sourced, bare rooted, & to be planted between September and March in pits with compost and appropriate fertilizer. Trees to be protected with 'tubex' tree shelters. Five year maintenance programme to comprise annual weeding, replacement of dead or damaged stock, damaged stakes and shelters & feeding with appropriate fertilizer. 90% success rate to be achieved at end of 5 year care period.



Note;  
 applicant to ensure that all Planning Conditions are addressed and/or discharged in accordance with Planning Permissions relating to this development. Failure to do so will invalidate the Planning Permission.

Note;  
 Contractor to identify all services underground & overhead, on & around site and isolate / protect / relocate as necessary prior to commencing work on site.

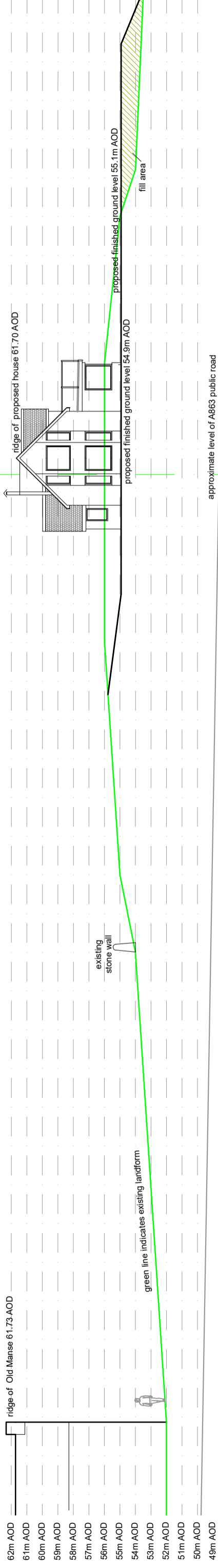
Note;  
 soakaways to be min. 5 metres from boundaries & 10 metres from public road and/or open water courses

**Dry stone wall notes;**  
 Transportation of materials to site - all materials to be transported from main road to site by way of access route shown only in 1 ton loads by either dumper truck, forklift (typically the 3 wheeler 'piggyback' forklifts that come on the rear of many building suppliers large trucks) or 1 ton payload pickup truck/van

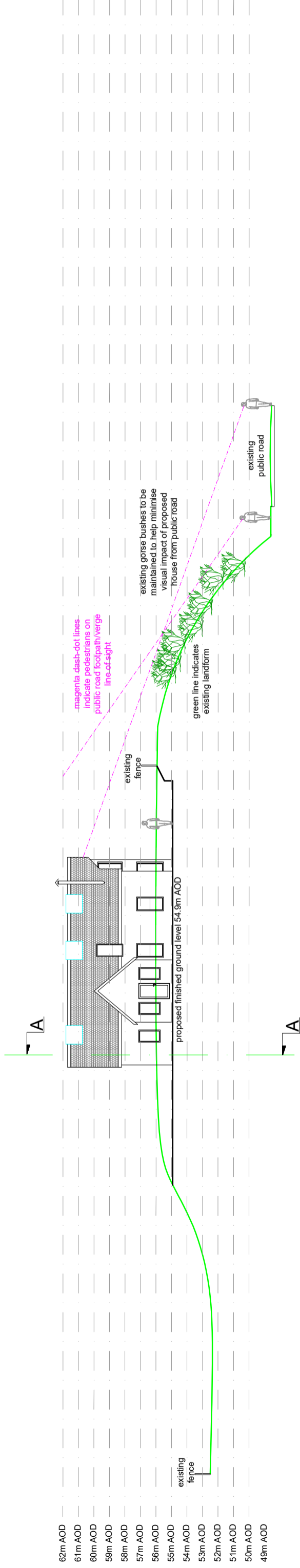
Dilapidation survey to be carried out by qualified stone mason or structural engineer to assess existing condition of stone boundary wall prior to works commencing on site. Wall to be inspected upon completion of works and any further dilapidation of stone wall due to building works to be made good.

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Dr. No.	JG4444	Rev:01	Date:16.4.2020	Drawn JG	Chk'd
Status:	Pre planning permission - do not use for construction				
Title:	Site & Location Plan				
Project:	Land to East of 'The Old Manse' Struan, Isle of Skye				
Client:	Mr & Mrs Kurtz				
Scale:	1:500 on A3		Planning ref:09/00360/LBCSL 15/00976/PIP		



## Section A-A 1:250

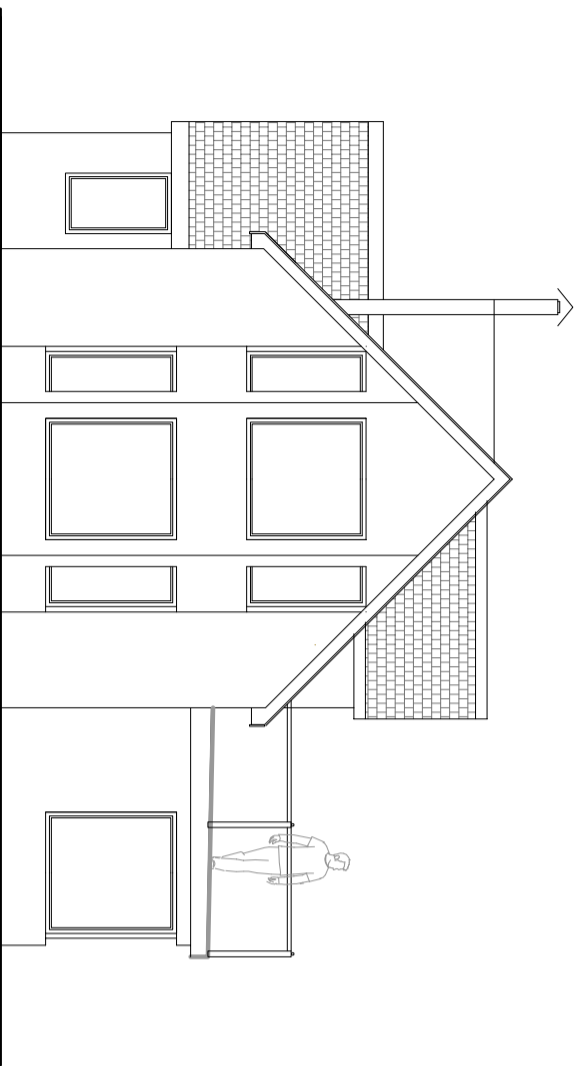


## Section B-B 1:250

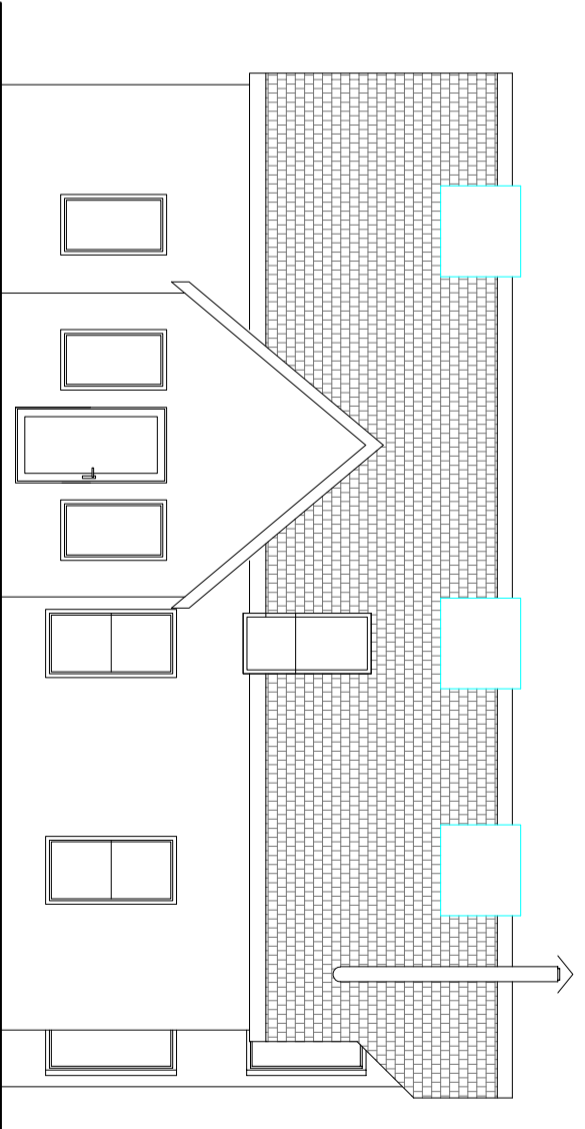


Drwg. No. JG4445	Rev: 01	Date: 16.4.2020	Drawn: JG	Chk'd
Status: Pre planning permission – do not use for construction				
Title: Sections AA & BB				
Project: Land to East of 'The Old Manse' Struan, Isle of Skye				
Client: Mr & Mrs Kurtz				
Scale: 1:250 on A3				
Planning ref: 09/00360/LBCSL				

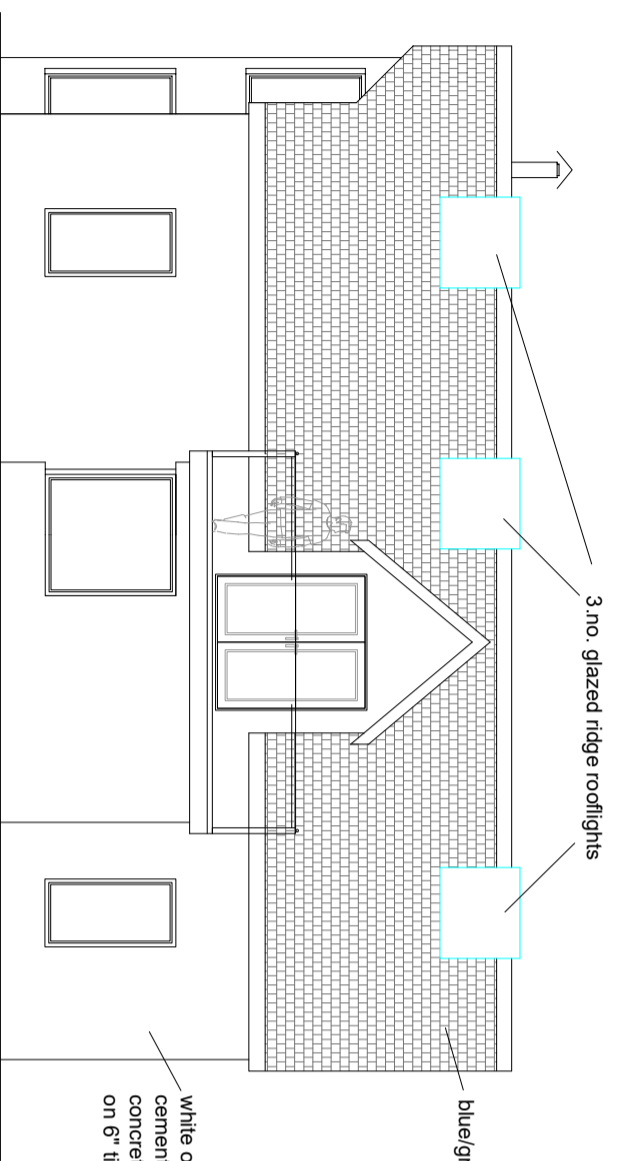
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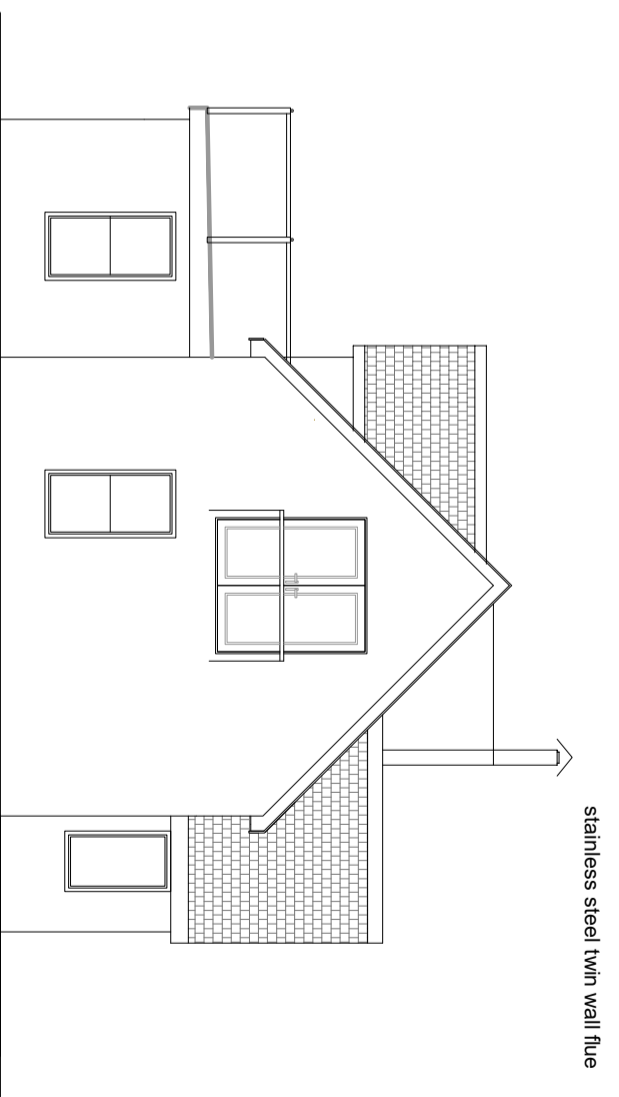
SOUTH



WEST



EAST



NORTH

3.no. glazed ridge rooflights

blue/grey natural slate

white or off white painted  
cement render on 4"  
concrete block cladding  
on 6" timber frame

stainless steel twin wall flue

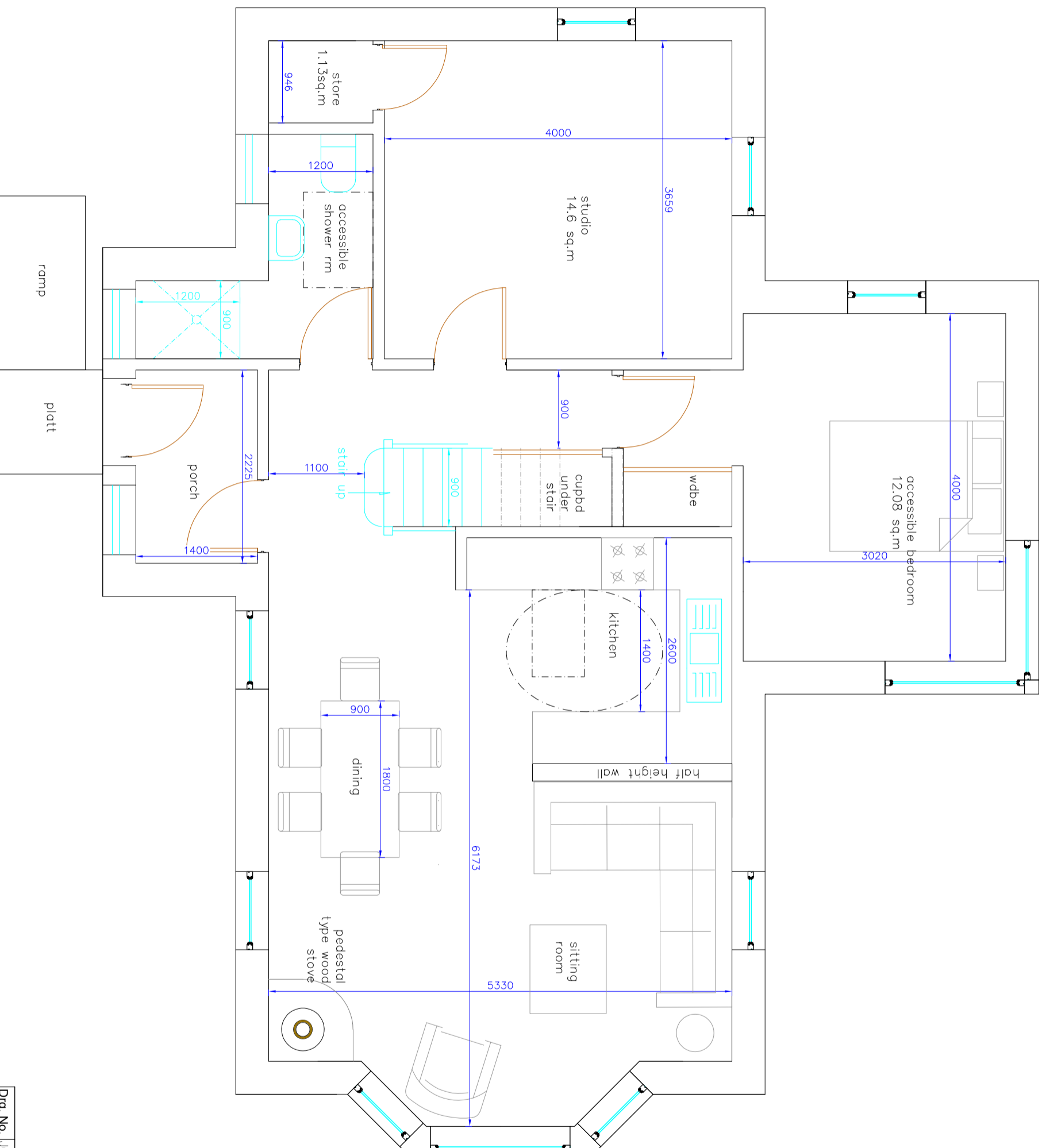
# Elevations

## 1:100



  
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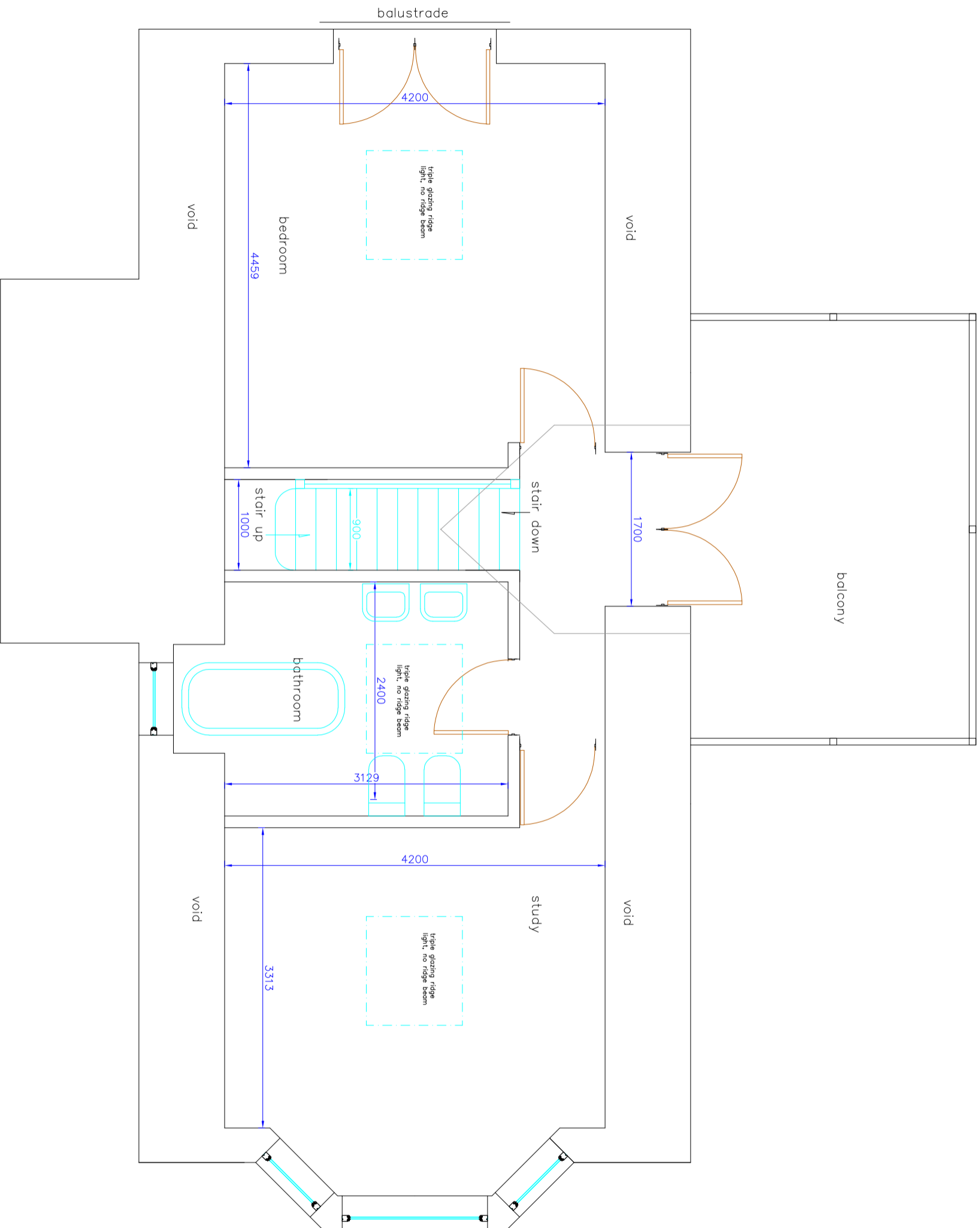
Dwg. No.	JG4446	Rev: 01	Date: 10.4.2020	Drawn: JG	CHK'd
Status:	Pre planning — do not use for construction				
Title:	Elevations				
Project:	New house at Struan, Isle of Skye				
Client:	Mr & Mrs Kurtz				
Scale:	1:100 on A3				
Planning ref:					



# Ground Floor Plan 1:50


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<b>Fig. No.</b>	JG4447	<b>Rev:</b> 01	<b>Date:</b> 10.4.2020	<b>Drawn:</b> JG	<b>CHK'd</b>
<b>Status:</b>	Pre planning – do not use for construction				
<b>Title:</b>	Ground Floor Plan				
<b>Project:</b>	New house at Struan, Isle of Skye				
<b>Client:</b>	Mr & Mrs Kurtz				
<b>Scale:</b>	1:50 on A3				
			<b>Planning ref:</b>		



# First Floor Plan

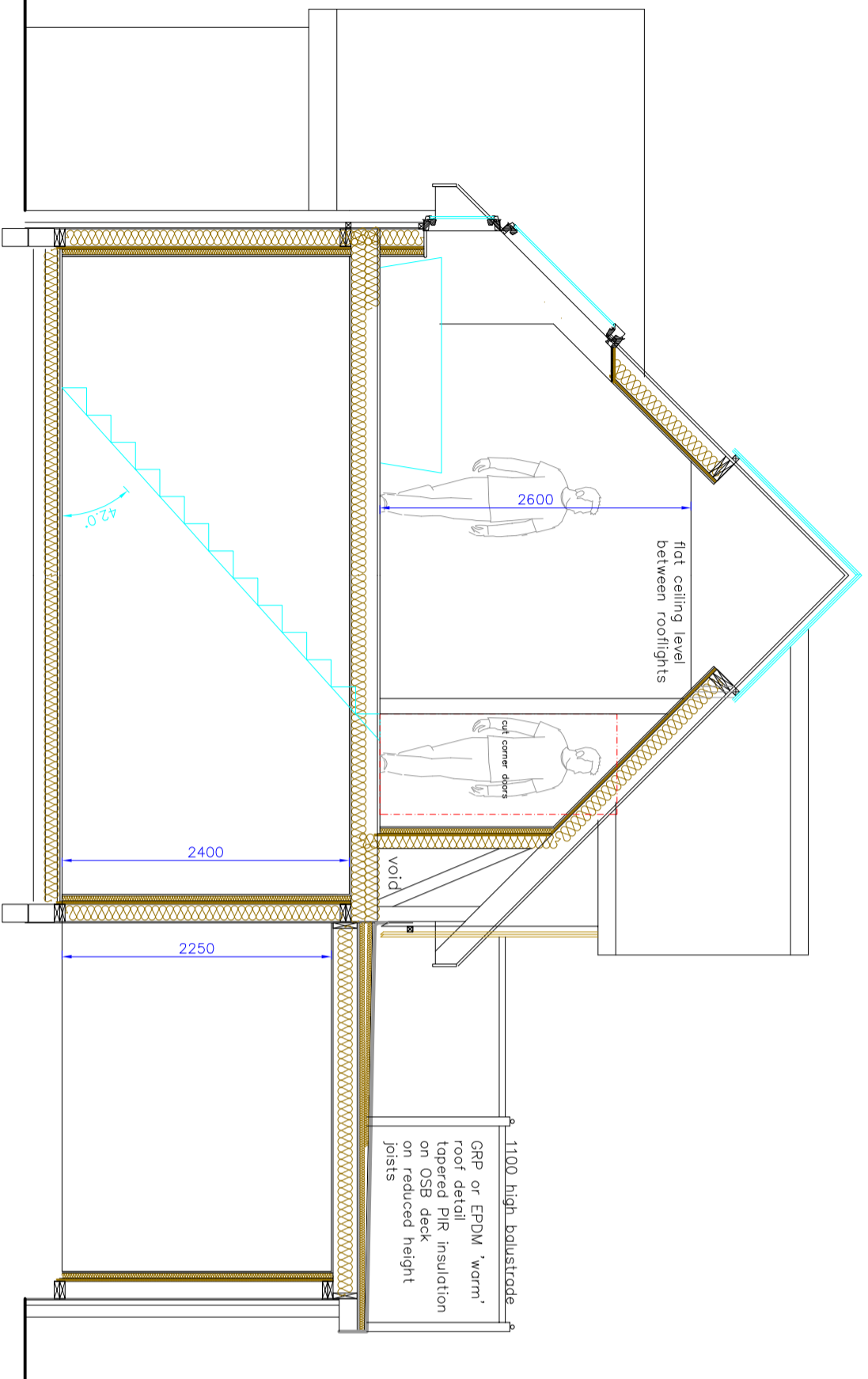
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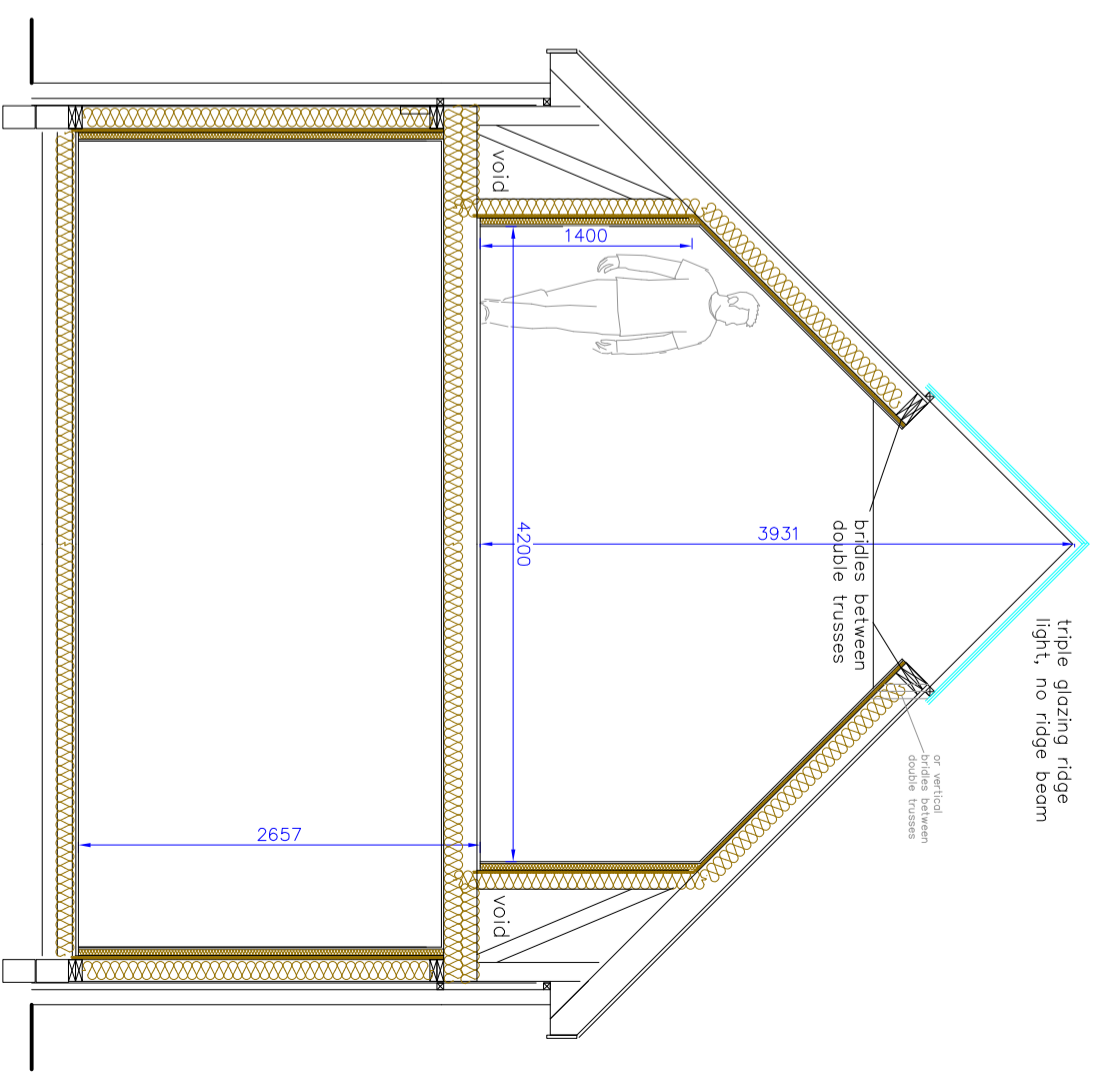
  
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Dwg. No.	JG4448	Rev: 01	Date: 10.4.2020	Drawn: JG	CHK'd
Status:	Pre planning – do not use for construction				
Title:	First Floor Plan				
Project:	New house at Struan, Isle of Skye				
Client:	Mr & Mrs Kurtz				
Scale:	1:50 on A3				
					Planning ref:

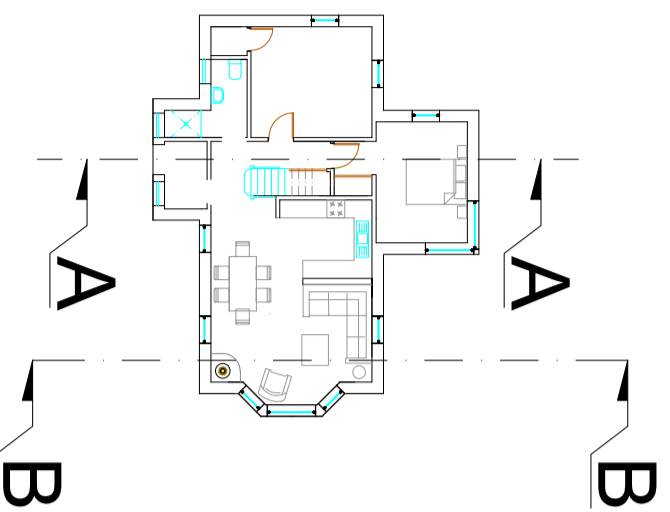




Section A-A

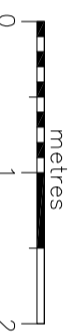


Section B-B



Section AA & BB

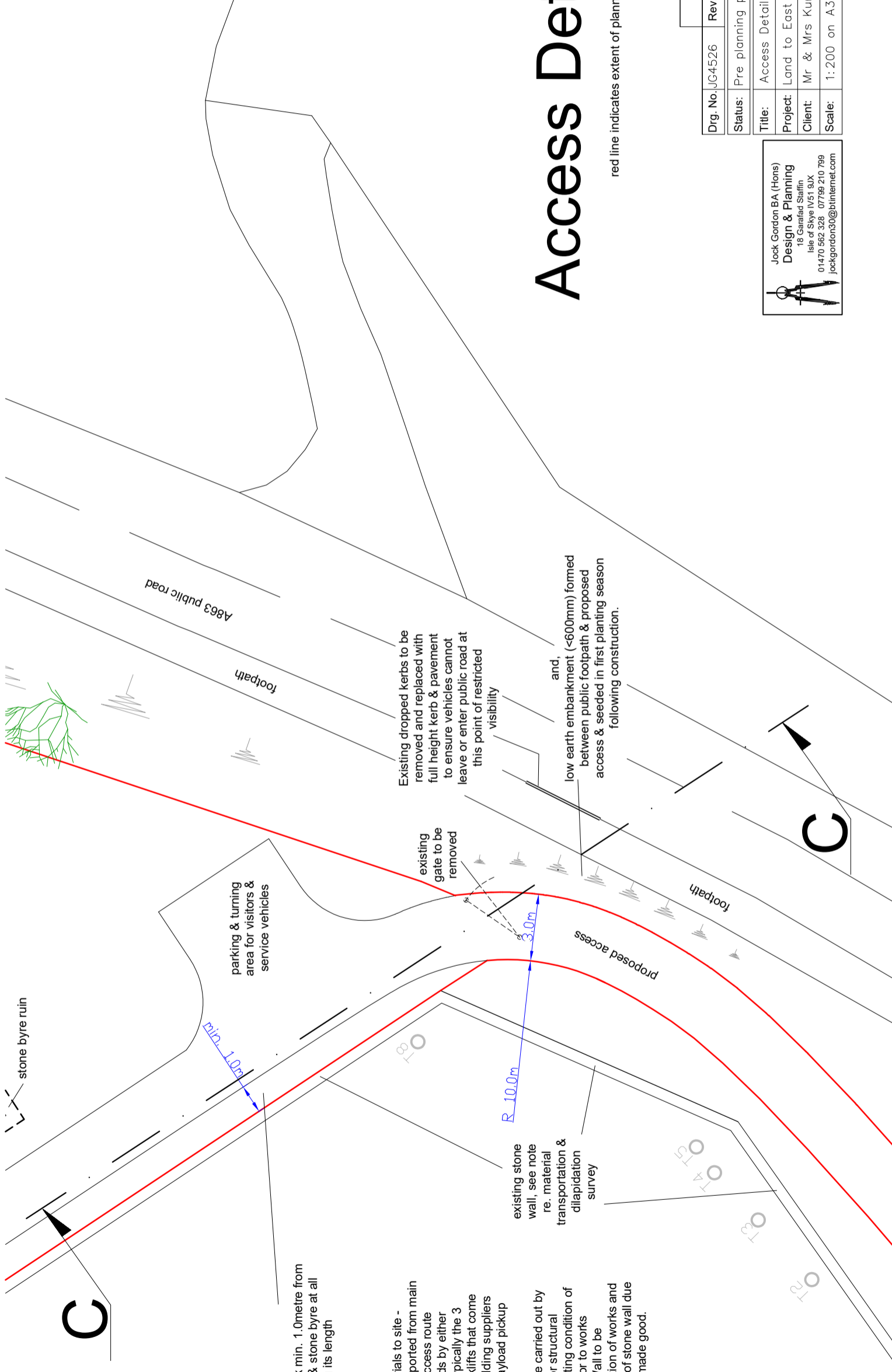
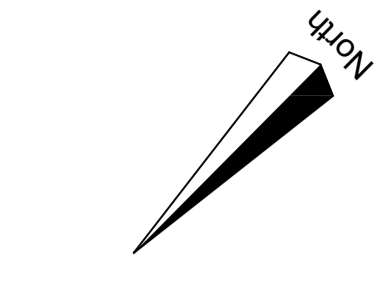
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Dwg. No.	JG4449	Rev:01	Date:10.4.2020	Drawn:JG	CHK'd
Status:	Pre planning – do not use for construction				
Title:	Sections AA & BB				
Project:	New house at Struan, Isle of Skye				
Client:	Mr & Mrs Kurtz				
Scale:	1:50 on A3				
Planning ref:					





proposed access track min. 1.0metre from existing stone wall & stone byre at all points along its length

**Dry stone wall notes;**  
 Transportation of materials to site - all materials to be transported from main road to site by way of access route shown only in 1 ton loads by either dumper truck, forklift (typically the 3 wheeler 'piggyback' forklifts that come on the rear of many building suppliers large trucks) or 1 ton payload pickup truck/van

Dilapidation survey to be carried out by qualified stone mason or structural engineer to assess existing condition of stone boundary wall prior to works commencing on site. Wall to be inspected upon completion of works and any further dilapidation of stone wall due to building works to be made good.

Existing dropped kerbs to be removed and replaced with full height kerb & pavement to ensure vehicles cannot leave or enter public road at this point of restricted visibility

and, low earth embankment (<600mm) formed between public footpath & proposed access & seeded in first planting season following construction.

existing stone wall, see note re. material transportation & dilapidation survey

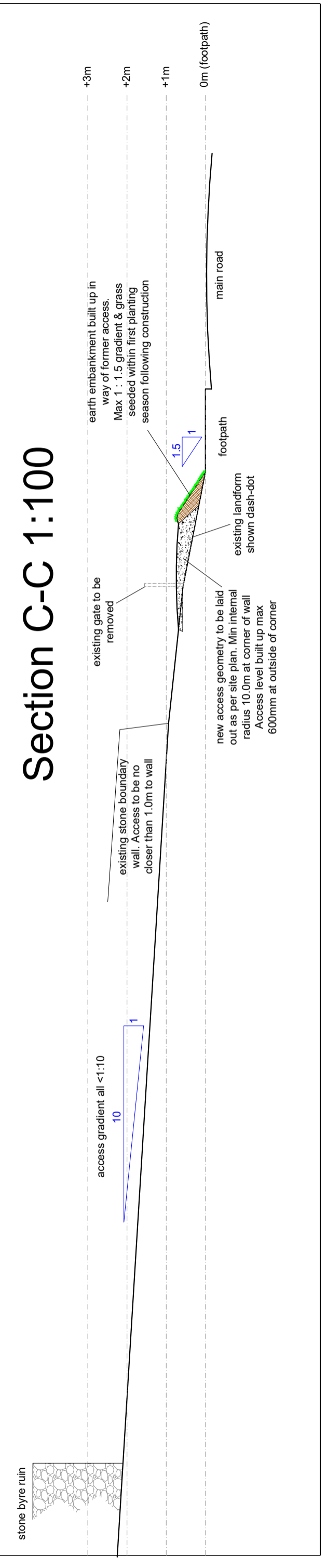
# Access Detail 1:200

red line indicates extent of planning development area

Drwg. No. JG4526	Rev: 01	Date: 2.7.2020	Drawn JG	Chk'd
Status: Pre planning permission - do not use for construction				
Title: Access Detail & Section CC				
Project: Land to East of 'The Old Manse' Struan, Isle of Skye				
Client: Mr & Mrs Kurtz				
Scale: 1:200 on A3				
Planning ref: 09/00360/LBCSL 15/00976/PIP				

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## Section C-C 1:100



access gradient all <1:10

earth embankment built up in way of former access. Max 1 : 1.5 gradient & grass seeded within first planting season following construction

new access geometry to be laid out as per site plan. Min internal radius 10.0m at corner of wall  
 Access level built up max 600mm at outside of corner

