Agenda Item	6.4
Report No	PLN/047/24

HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 4th June 2024

Report Title: 23/05735/MSC: Mr Ross Lambie

Land 70M SW Of Tigh Na Greine, Broadford

Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Erection of house

Ward: 10 - Eilean A' Cheò

Development category: Local

Reason referred to Committee: Number of objections exceeding 5

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.

Recommendation

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

1. PROPOSED DEVELOPMENT

1.1 Planning approval of matters specified in conditions is sought in relation to the erection of a house at land 70m South West of property called Tigh Na Greine in Broadford.

Planning permission in principle 20/04824/PIP for the erection of a house was granted on appeal by the DPEA in December 2021.

- 1.2 Pre-Application Consultation: none
- 1.3 Supporting Information: Private Access Checklist
- 1.4 Variations: Amended drawings submitted on 1st May 2024 to address comments from Transport Planning Team. Amended application form submitted on 21st May 2024 to correct land ownership matters.

2. SITE DESCRIPTION

- 2.1 The site is rough agricultural grazing land located to the Western side of the single track public road B8083 on the outskirts of the village of Broadford. Existing residential properties are located to the North of the site on both sides of the road. There are some shrubs growing along the roadside boundary and a small watercourse runs in the Northern part of the site, from South-East to North-West. To accommodate formation of a gravel access leading to the house over the watercourse, a culvert will be installed.
- 2.2 An informal pedestrian access to local ponds runs alongside the Northern boundary. A gap will be kept between the neighbour's fence and the proposed fencing for the development so this route will remain open to the public.
- 2.3 The proposal includes the formation of a new junction with the public road. Originally, this was proposed to be nearer the corner adjacent to the neighbouring property called Tigh Na Greine and opposite the access leading to a removals and storage depot. Following discussions with Transport Planning Team, the access is now proposed roughly in the middle of the roadside section of the application site boundary.
- 2.4 Proposal of Application Notice 24/01638/PAN has recently been submitted to the planning authority for the erection of temporary staff accommodation (around 350 beds), welfare and recreational buildings at land about 17m to the South-West of the application site. This notice of a major development is pending consideration.

3. PLANNING HISTORY

3.1 20.12.2021 20/04824/PIP Erection of house Granted on appeal by DPEA

4. PUBLIC PARTICIPATION

4.1 Advertised: Unknown Neighbour

Date Advertised: 19.01.2024.

Representation deadline: 02.02.2024

Timeous representations: 5

Late representations: 0

- 4.2 Material considerations raised are summarised as follows:
 - a) application should not be dealt with as Matters Specified in Conditions because the aspects listed below differ to those of the related PIP:
 - the red line boundary,
 - access location,
 - new traffic considerations to omit restrictions attached to the PIP consent:
 - b) site is outwith the SDA and would result in ribbon development;
 - c) site regularly floods with the biggest concern being the location of proposed septic tank and soakaway;
 - d) absent landlord wishing to build a holiday home rather than much needed social/affordable house;
 - e) the site consists of peat which shouldn't be disturbed as this will increase the current nature crisis;
 - f) application is not meeting criteria of Policy 17 of NPF4;
 - g) NPAC rejected the PIP application with the view that the land designated in the WestPlan 2019 for housing (BF03) located across the road (East) from the site should be developed before any houses are built on the subject site (and adjacent land). The DPEA Reporter took a different view and granted permission;
 - h) proposed access will be unsafe as it will:
 - be opposite the busy junction used by HGVs and commercial vehicles and leading to a removals and storage depot;
 - have insufficient visibility splays on a busy road with vehicles going over the speed limit of 20mph;
 - i) proposal will further damage the public road which is already in a poor condition;
 - i) the site is of interest to Durham University as a possible SSSI;
 - k) development will cause drainage issues for adjacent properties and will negatively impact on their views.
- 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 **D & I Flood Team:** no comments to make

- 5.2 **Scottish Water:** raised no objections but highlighted that their Asset Impact Team must be contacted due to live infrastructure located in the proximity of the development. A relevant informative will be added to decision notice.
- 5.3 **SEPA:** replied saying that the application falls below the thresholds for which they provide site specific advice and re-directed to standing advice.
- 5.4 **Transport Planning Team:** objections due to issues with the proposed footpath were raised initially. However, those matters have been addressed by the applicant with amended drawings submitted showing changes to vehicle access and public footpath. The proposal is now acceptable to the roads department.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Framework 4 (2023):

- Policy 1 Tackling the Climate and Nature Crises
- Policy 2 Climate Mitigation and Adaptation
- Policy 3 Biodiversity
- Policy 5 Soils
- Policy 13 Sustainable Transport
- Policy 14 Design Quality and Place
- Policy 17 Rural Homes

6.2 Highland Wide Local Development Plan 2012

- 28 Sustainable Design
- 29 Design Quality and Place-making
- 31 Developer Contributions
- 36 Development in the Wider Countryside
- 55 Peat and Soils
- 65 Waste Water Treatment
- 66 Surface Water Drainage

6.3 West Highland and Islands Local Development Plan (2019) (WestPlan)

Placemaking Priorities - Broadford

6.4 Highland Council Supplementary Planning Policy Guidance

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

Developer Contributions (March 2018)

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

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 None

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 related Permission in Principle consent 20/04824/PIP, development plan and other planning policy;
 - b) siting and design;
 - c) access and road safety.

Development plan/other planning policy

This application follows on from the granting of planning permission in principle (PIP) for erection of a house on this site, as one of three which was granted on appeal to the Scottish Government. The original applications for three houses were recommended for approval but were refused by NPAC.

Some public representations (see 4.2 above) suggest that the application does not meet the criteria of an MSC application. However, on review, the red line matches the one shown for the associated PIP consent and the design of the house, as discussed below, is also within the parameters set by the PIP consent (see 8.6 below). Consequently, the principle of the erection of house on this site has been established as meeting policy criteria. Although NPF4 came into force after the PIP consent was granted, it is considered that the proposal is not contrary to the new legislation. The application site is located within an area designated as a remote rural area. Under NPF 4 Policy 17 (b), being the lead policy in this case, development proposals for new homes in remote rural areas will be supported where the proposal will:

- contribute towards local living and
- addresses local housing needs, economic considerations and transport needs as appropriate for rural location.

Although the house would be immediately outwith the Broadford SDA, it would address the local needs for housing and economic growth. Thus, the development is not considered to be contrary to Policy 17 of NPF4.

The points raised within public representations do not introduce any new considerations in comparison with those highlighted during determination of the associated planning in principle application. As such, these matters were addressed by the Reporter during the appeal process. Therefore, this application is considered

to not only meet the criteria of policies relevant at the time of the appeal, but also to meet the criteria of the more recent NPF4, especially Policy 17.

8.5 NPAC rejected the previous PIP application with the view that the land designated in the WestPlan 2019 for housing (BF03) located across the road (East) from the site should be developed before any houses are built on the subject site (and adjacent land). The DPEA Reporter disagreed with such approach to the development plan and concluded that the site's location accords with HwLDP Policy 28, Policy 29 and Policy 36 and the related supplementary guidance.

Siting and design

- 8.6 Conditions attached to the PIP required the house to be of sympathetic design, form and finish to the surrounding settlement and incorporating the following:
 - i. The building shall be no higher than one and a half storey in design and height.
 - ii. The roof shall be symmetrically pitched at least 35 degrees and finished in natural slate. External walls shall be finished in a white/off-white cement render.
 - iii. Windows shall have a strong vertical emphasis.
 - iv. The building to be predominantly rectangular in shape with traditional gable ends.

It is considered that the details submitted in this application for the approval of matters specified in conditions satisfy the terms of these conditions. The house has been designed to correspond with the surrounding settlement and has the external appearance of a 1½ storey, L-shaped building. Although the shape of the house does not strictly correspond with the PIP condition for a rectangular form, it is considered acceptable with the overall form being longer than it is wide. The external materials consist of natural slate roofing and off-white rendered walls. A small larch cladded porch will be added to the North elevation. This again is considered acceptable design and raises no concerns in terms of neighbour amenity.

8.7 An objection comment has been submitted with regards to the potential for the loss of views from the neighbouring property. The right to a private view is not a material planning consideration.

Access and road safety

- 8.8 Objections have highlighted the fact that the currently proposed access point is in a different location when compared with the PIP consent. It needs to be highlighted that the PIP application showed an indicative location of the junction with the public road which is now proposed closer to the Northern boundary. The purpose of an MSC application is to present detailed arrangements of those matters approved in principle and the access arrangement is clearly identified as one of those matters. Indicative details at the PIP stage do not dictate the details chosen at MSC.
- 8.8 The proposed access point will meet an SDB1 standard design and, as mentioned above, has been moved to the middle of the site as per suggestions from Transport

Planning Team. A culvert will be installed to allow construction of a gravel access drive over the above-mentioned small watercourse. The proposed access raises no concerns, sufficient visibility splays are achievable.

- 8.9 The site layout includes the necessary level of parking required by the condition of the PIP and the access junction design accords with the access schedule and the relevant PIP condition.
- 8.10 The original permission in principle sought the repositioning of the speed limit boundary and installation of additional street lighting to reflect the additional accesses. The amended site plan shows proposed lighting post and speed limit signage. The requirement for the footpath to be provided along the entire frontage of the site also remains and is shown on the plans. Again, the details are deemed satisfactory by the Roads department. The applicant confirmed that a Roads Opening Permit will be applied for before formation of the access or commencement of any works within the road.
- 8.11 It has been suggested that the public road is in poor condition and that the development will lead to its further damage. It is acknowledged that the public road (like many others in the vicinity) is showing signs of wear and tear, however it is not considered that the traffic levels generated by the proposal will materially worsen this situation.

Other material considerations

8.12 Objections highlight that the site consists of peat which shouldn't be disturbed as this will have detrimental impact on the current nature crisis. According to the online records, the site is not within a carbon-rich peatland, and it's classified as Class 0 peatland (mineral soil) - peatland habitats are not typically found on such soils. Therefore, it is considered that the development will not have negative environmental impact in this regard.

According to the Highland Council records, the site is not part of a croft. In addition, Scotland's National scale land capability for agriculture mapping identifies the site to be predominantly Class 5.3 which is described as "Land capable of use as improved grassland. Pasture deteriorates quickly". Therefore, it is considered that the application site is not prime agricultural land and as such, the proposed development is considered compatible with Policy 5 of the NPF4.

8.13 A new private foul drainage system will be accommodated within the site. Objections were raised stressing that the site is prone to flooding due to a river running to the North of the site, especially where the soakaway is proposed. This was highlighted as a problem which will make implementation of drainage in the shown location impossible. However, SEPA's flood maps show that the site is outwith the flooding risk. No objections were raised by Flood Team or SEPA. The technical details of private foul drainage arrangements will require to satisfy the Building (Scotland) Regulations.

There are no other material considerations.

Non-material considerations

8.14 The absentee landowner, possible use of the house as a holiday home, misleading information about speed limits and non-logical approach of DPEA reporter to the housing site BF03 across the road are non-material considerations.

Matters to be secured by Legal Agreement / Upfront Payment

- 8.15 In order to mitigate the impact of the development on infrastructure and services the following matters require to be secured prior to planning permission being issued:
 - a) None

9. CONCLUSION

- 9.1 The proposal follows on from the planning permission in principle granted in 2021 and seeks to satisfy matters specified in conditions attached to that consent. It needs to be highlighted that the principle of erection of house on this site has been established.
- 9.2 The proposed development is considered to meet the relevant planning policy discussed above. Although the site is not within the SDA, it is adjacent to it and, in addition, it can be supported on the basis of meeting the Broadford Placemaking Principles. This matter was addressed positively by the Reporter during the appeal process. The visual impact of the whole development is considered acceptable, and existing residential amenity is not expected to change detrimentally due to the proposal. It is recognised that the additional house will introduce change to this part of the settlement but not in negative ways that would justify a reason for refusal.
- 9.3 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. 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

Conclusion of Section 75 Obligation N

Revocation of previous permission N

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

1. The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date on this decision notice.

Reason: The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date on this decision notice.

2. No other development shall commence until the junction has been constructed in full. 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: In the interests of road safety, and that the works involved comply with applicable standards.

3. Prior to the first occupation of the development hereby approved, the footpath shall be constructed in accordance with the approved details as shown on drawing 10 rev. P2. The footpath shall be retained for public use in perpetuity.

Reason: To enable pedestrians to keep out with the public road and the path of oncoming traffic; in the interests of road safety.

4. Prior to first occupation of the house hereby approved, the street lighting as shown on approved plan 10 rev. P2 shall be erected and made operational.

Reason: In the interests of road safety.

5. The development shall not be carried out other than in accordance with the details shown on approved Site Plan drawing 10 rev. P2 and any other details stipulated by the required Road Opening Permit.

Reason: In the interests of road safety.

6. No development or work (including site clearance) shall commence until proposals for an archaeological watching brief to be carried out during site clearance and excavation works, has been submitted to, and approved in writing by, the planning authority. Thereafter, the watching brief shall be implemented as approved.

Reason: In order to protect the archaeological and historic interest of the site.

REASON FOR DECISION

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.

INFORMATIVES

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.

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 (paragraph 259), 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 and 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 road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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/info/20005/roads and pavements/101/permits for working on public roads/2

Mud and Debris on Road

Please note that it 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.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot 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 NatureScot: https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species

Signature:

Designation: Area Planning Manager - North

Author: Karolina Slotwinska

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

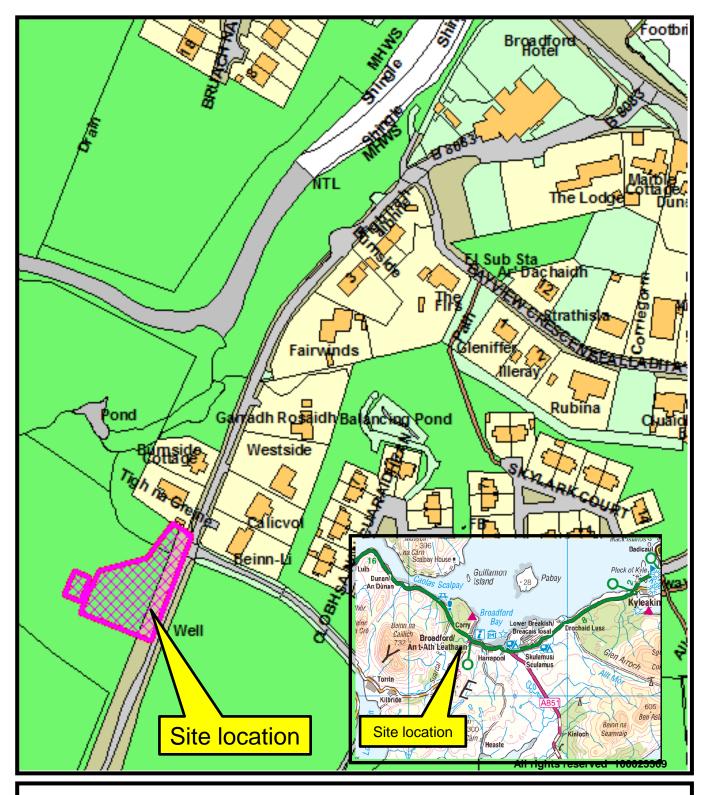
Relevant Plans: Plan 1 - Location Plan

Plan 2 - 01 rev. P5 Location Plan

Plan 3 - 10 rev. P2 Site Plan

Plan 4 - 12 rev. P0 Elevation Plan

Plan 5 - 11 rev. P0 Floor Plan

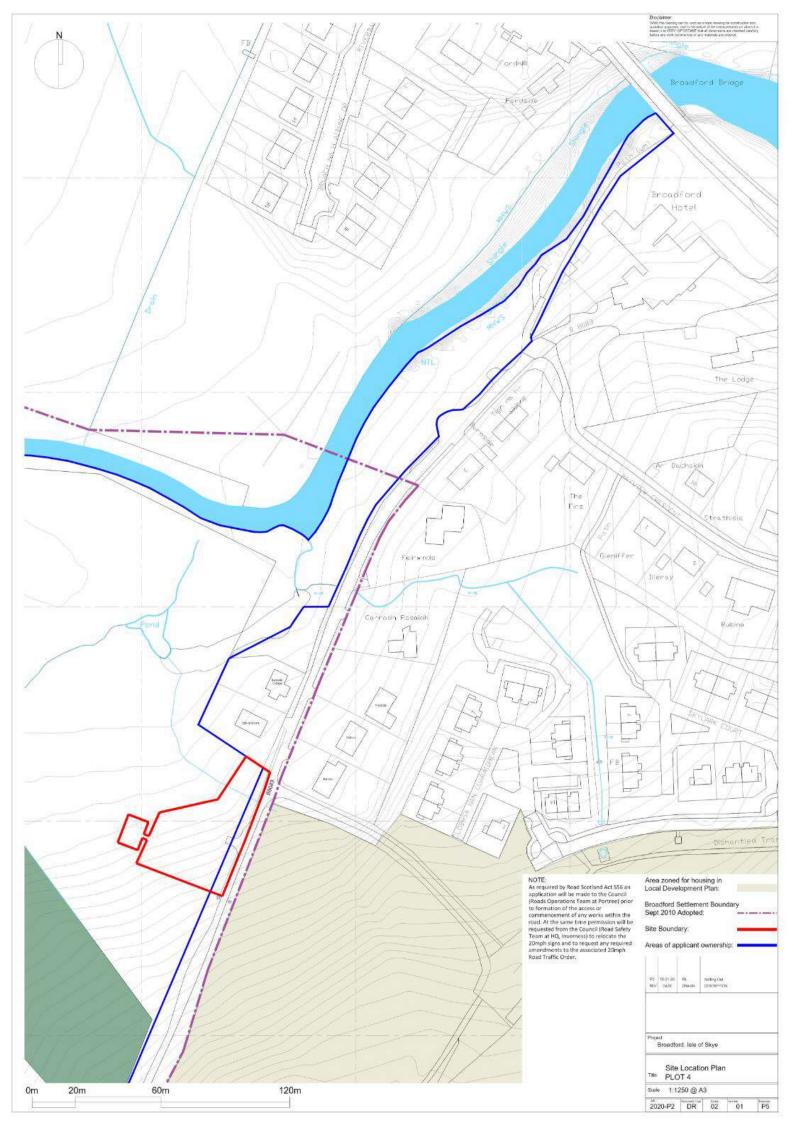


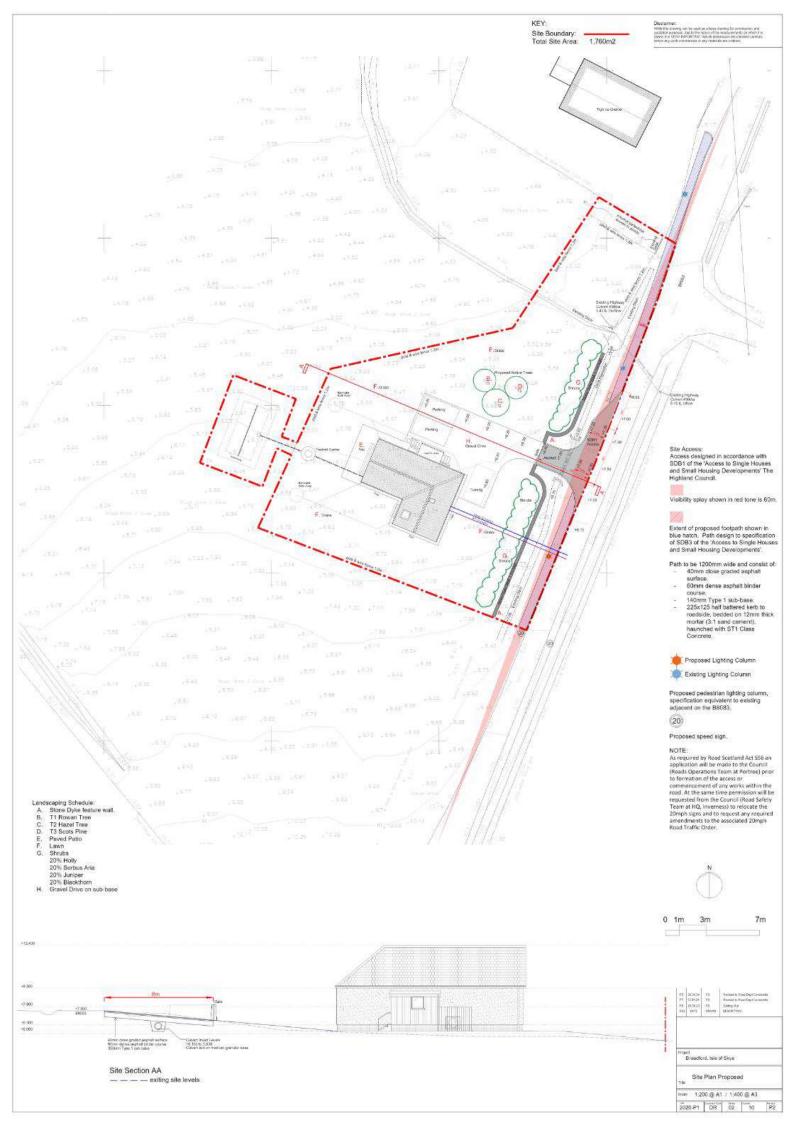


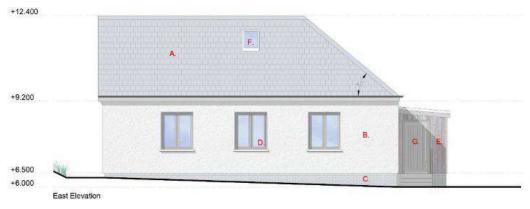
Development & Infrastructure Service

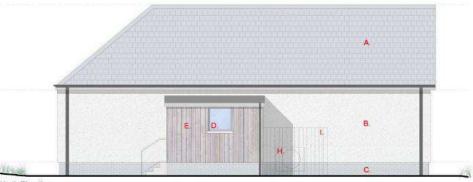
23/05735/MSC

Erection of house Land 70M SW Of Tigh Na Greine Broadford June 2024

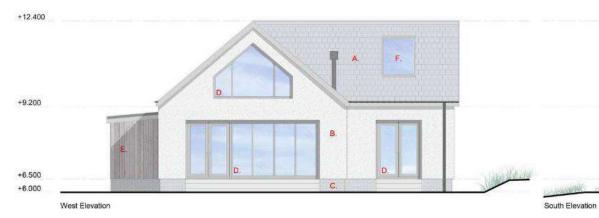


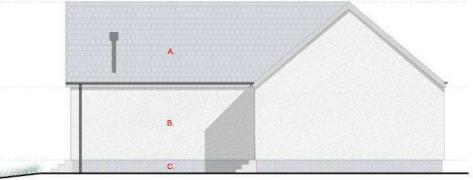






North Elevation





- Material Key:

 A. Natural Slate Roofing

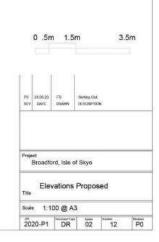
 B. Off-White Render
 C. Engineering Brick Base Course (grey/blue)
 D. Aluminium Framed Double Glazing & French Doors(dark grey)

 E. Natural Responsibly Sourced Larch Cladding.

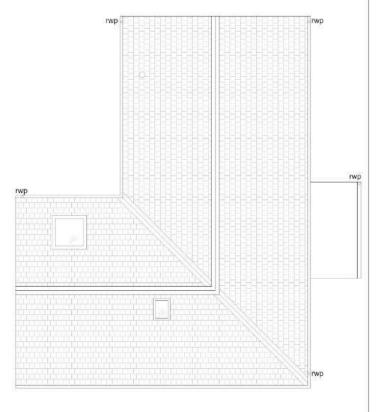
 F. Double Glazed Velux

- Solid Wood Door (dark grey) Sustainable Air Source Heat Pump Ship Lap Fence to Bin Enclosure

Material specification and roof pitch angle in compliance with Condition 3. of Appeal Decision Notice.







Ground Floor Plan 1st Floor Plan Roof Plan

