

Agenda Item	<b>3.1</b>
Report No	PLC/052/10

10/02884/PIP : Ms Fiona Scott & Mr William Beattie  
Site 1 Fox Farm Woodland Ardross

Report by Area Planning and Building Standards Manager

## SUMMARY

**Description** : Erection of house and installation of sewage system

**Recommendation - GRANT**

**Ward** : 07 – Cromarty Firth

**Development category** : Local development

**Pre-determination hearing** : Not required.

**Reason referred to Committee** : Partial objection by Community Council and proposed discharge of Section 75 Agreement imposed by the former Ross & Cromarty Area Planning Committee.

## 1. PROPOSED DEVELOPMENT

- 1.1 The application for Planning Permission in Principle comprises the erection of a single house with associated foul drainage system. The site occupies an area of gently sloping ground immediately to the east of the B9176 and north of the Burn of Achnaclloch at Stittenham.
- 1.2 Outline Planning Permission was granted for two sites in this area in 2007, subject to a Section 75 Agreement precluding any further development within the applicants' land holding. The house on Site 2 has been built however the permission for Site 1 lapsed in January of this year. This current application seeks to renew this previous permission.
- 1.3 Pre-application consultation has resulted in the application being submitted following the applicants' realisation that the previous permission for development of the site had lapsed.
- 1.4 It is proposed to use the existing access onto the B9176 Struie public road. A public water supply exists and successful percolation tests have previously been carried out demonstrating the suitability of the subsoil to accommodate a private septic tank and soakaway.
- 1.5 No supporting documents have been submitted.

## **2. SITE DESCRIPTION**

- 2.1 The site is located to the north of the new house built on Site 2 at Fox Farm, within an area of replanted mixed woodland to the immediate east of the bridge over the Burn of Achnacloich on the B9176 at Stittenham, approximately one mile north of Ardross crossroads. Access is proposed to be taken from the existing private track to the property of 'Kambr', which lies further to the south.

## **3. PLANNING HISTORY**

- 3.1 05/00379/OUTRC - Erection of two houses – Withdrawn March 2006  
06/00160/OUTRC – Erection of house – Outline Planning Permission granted 24.01.2007 subject to Section 75 Agreement.

(Adjacent site 06/00161/OUTRC Erection of house – Outline Planning Permission granted 24.01.2007 subject to Section 75 Agreement.)

## **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Potential Departure and Neighbour Notification

Representation deadline : 30 July 2010

No representations received.

## **5. CONSULTATIONS**

- 5.1 **Ardross Community Council** : The Community Council is evenly split between being in favour of this application and wishing to object, now that advice in recent Planning Circulars is that the use of Section 75 is not recommended in these circumstances. The Community Council is still not keen on this area east of the B9176 becoming similar in character to Stittenham on the west side of the road. It is the precedent that building another dwelling on this site would make further development difficult to resist which has persuaded people that the Community Council should object to this application. Members should be aware that the Community Council has been consistent in not wanting *ad hoc* development on this side of the B9176. If permission is granted then the conditions and reserved matters attached to the original outline permission should be applied.

- 5.2 **Scottish Water** : No objection

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Structure Plan 2001**

- |    |                            |
|----|----------------------------|
| G1 | Conformity with strategy   |
| G2 | Design for sustainability  |
| H3 | Housing in the Countryside |

### **6.2 Ross & Cromarty East Local Plan**

- |      |                       |
|------|-----------------------|
| BP3  | Background policy     |
| 6.31 | Heritage/Natural Zone |

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

Not applicable

### **7.2 Highland Council Supplementary Planning Policy Guidance**

Housing in the Countryside

### **7.3 Scottish Government Planning Policy and Guidance**

Scottish Planning Policy

## **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**

With regard to policy, the site lies within the Heritage/Natural zone as identified in the adopted Ross & Cromarty East Local Plan. The Ross & Cromarty Area Planning Committee took the view in 2007 that the two houses originally proposed could be accepted under the terms of such policy, subject to conditions and a legal agreement precluding any further development within the land in the applicants' ownership. As policy has not changed materially since 2007 the principle of renewing the permission appears reasonable.

8.4 Although originally intended that the Section 75 Agreement would be varied to reflect the new application, advice from the Council's Solicitor is that the Council should discharge the Agreement in its entirety in light of recent Scottish Government guidance in Circular 1/2010. Agreements restricting further development do not meet the "necessity" test which the Circular stresses. Further development proposals which were not permitted development would already be under the Council's control via the planning application process so controlling them by s75 Agreement is not strictly necessary. Even if the Agreement were retained, it would not preclude a further planning application and the Council would be obliged to assess that application on its planning merits, irrespective of the existence of the Agreement. Accordingly the Council cannot justify insisting on a Section 75 Agreement in these circumstances.

### **8.5 Material Considerations**

There are no technical objections and no third party representations have been received. Ardross Community Council has indicated that opinion is evenly split as to whether an objection should be made. Initially, the Community Council advised no objection subject to the same conditions attached and Section 75 Agreement adjusted.

## 8.6 Matters to be secured by Section 75 Agreement

In the light of the guidance in Circular 1/2010 and the Council's Solicitor's advice, it is recommended that the existing Section 75 Agreement be discharged.

## 9. CONCLUSION

- 9.1 The application reflects in its entirety the previous application (06/00160/OUTRC) granted Outline Planning Permission in January 2007. It is therefore considered acceptable subject to the conditions recommended below. As explained above, it is recommended that the previous Section 75 Agreement precluding any further development on this land holding, should be discharged, in line with current Government advice. It is of course open to the Council, as Planning Authority, to consider separately any future applications for development within this area against adopted policy and other material considerations at that time.

## 10. RECOMMENDATION

### Action required before decision issued Y

Notification to Scottish Ministers N

Notification to Historic Scotland N

Discharge of Section 75 Agreement Y

Revocation of previous permission N

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

1. This planning permission in principle shall lapse THREE YEARS from the date of this permission should no subsequent application for the approval of matters specified in conditions be submitted within this time. In any case, the development to which this permission relates must commence no later than THREE YEARS, or TWO YEARS from the date of approval of any matter(s) specified in conditions, whichever is the later.

**Reason** : In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

2. A further application, or applications, for the approval of matters specified in this condition must be made within THREE YEARS of the date of this decision notice. The application shall be in the form of a detailed layout of the site (including landscaping and car parking), and detailed plans, sections and elevations of the building/s. The MATTERS specified in this condition are the siting, design and external appearance of any building(s), the means of access and landscaping.

**Reason** : In order to accord with the statutory requirements of the Town and Country Planning (Scotland) Acts.

3. For the avoidance of doubt, the matters specified in Condition 2 above shall include cross-sections across the site showing clearly existing and proposed finished ground levels together with the proposed finished floor level of the house hereby approved. The house shall be set into the site as low as is practical.

**Reason:** In order to ensure that the established amenity of the area is adequately safeguarded.

4. The house shall be single or one and a half storeys in height, be of traditional design and materials to complement existing development in the area and it shall be finished with a dark grey roof. The house shall be orientated generally with its ridge running parallel to the public road.

**Reason:** To ensure that the established amenity of the area is adequately safeguarded.

5. Prior to development commencing on the house hereby approved, the access onto the B9176 shall be improved to the satisfaction of the Roads Authority, comprising visibility improvement to the south side and deepening of the junction area marginally to allow two cars to pass.

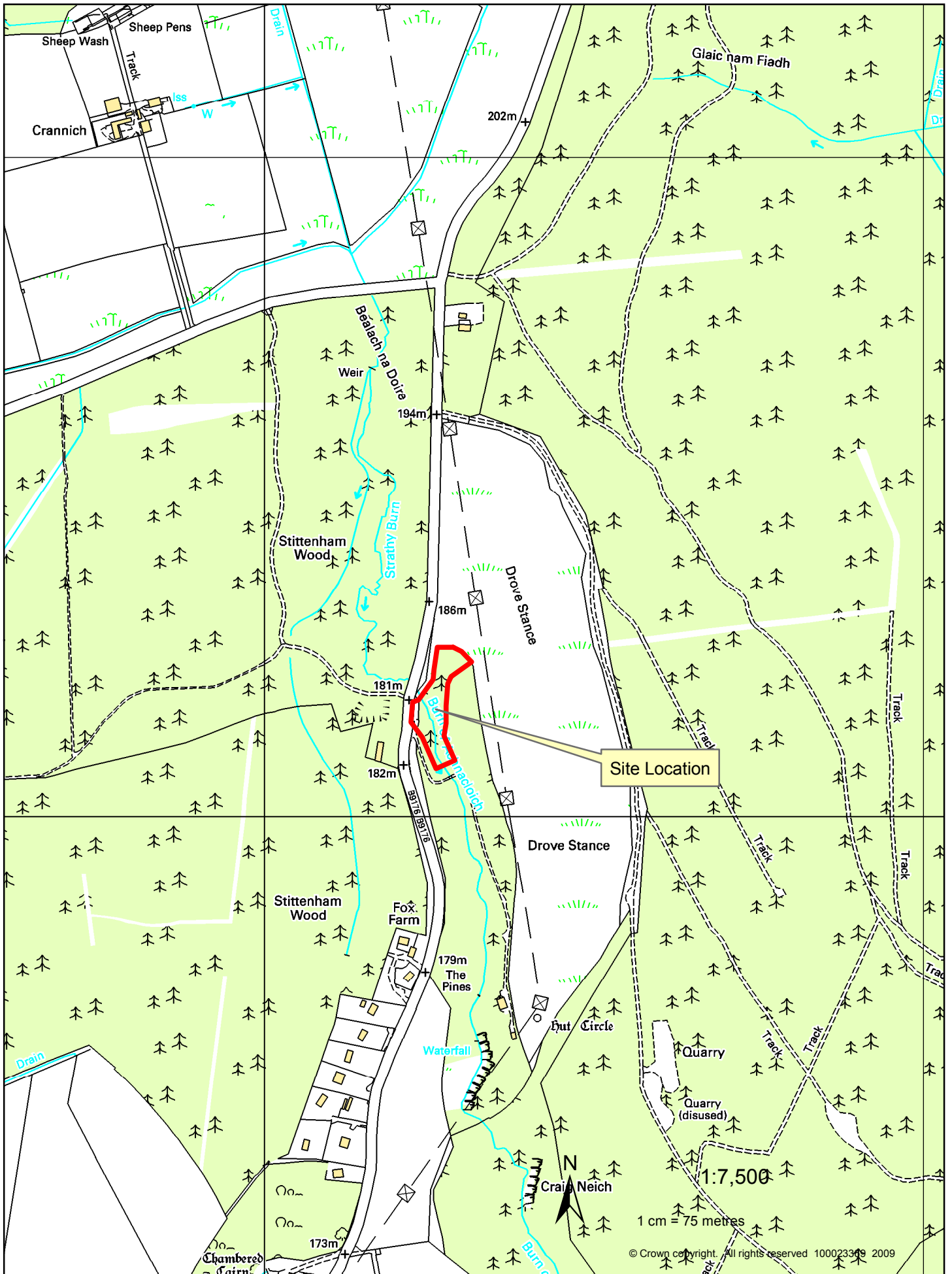
**Reason:** In the interests of road safety.

## FOOTNOTE TO APPLICANT

**Conditions:** Your attention is drawn to the conditions attached to this permission. 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 meet these conditions may invalidate your permission or result in formal enforcement action.

**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.

Signature: Allan J Todd  
Designation: Area Planning & Building Standards Manager  
Caithness, Sutherland and Easter Ross  
Author: Dorothy Stott  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Location Plan



10/02884/PIP  
 Erection of house and installation of sewage system at  
 Site 1, Fox Farm Woodland, Ardrross.

Ms F Scott & Mr W Beattie  
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