

**THE HIGHLAND COUNCIL**

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 13 SEPTEMBER 2011**

Agenda Item	<b>3.2</b>
Report No	<b>PLC/039/11</b>

**10/03519/PIP : Mr Dave Macdonald**  
**Land south of Tigh Na Greine, Quebec Bridge, Tain**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** The proposal seeks to establish the principle of developing the site for a single house.

**Recommendation - REFUSE**

**Ward :** 08 - Tain And Easter Ross

**Development category :** Local Development

**Pre-determination hearing :** None

**Reason referred to Committee :** Application referred to Committee at request of Local Members following a Delegated Refusal report. The report is attached. The recommended reasons for refusal are –

(1.) The development does not accord with the Highland Structure Plan policy H3 Housing in the Countryside, the Highland Wide Local Development Plan (Proposed Plan September 2010) policy 36, and in particular the Interim Supplementary Guidance: Housing in the Countryside and Siting and Design (August 2011) in respect of the provisions relating to the development of garden ground. In particular, as the application site lies outside of the existing clearly defined immediate garden area surrounding Tigh na Greine it does not meet the requirements of the policy as it is not garden ground as defined by the policy – that is, that it is

- outside of the formal garden ground;
- separated from the house by a road, track or other feature – i.e. ground that is directly related to the house.

(2.) The development of the site which lies within an area of woodland identified as Long Established Woodland of Semi Natural Origin does not accord with the Planning Authority's Draft Supplementary Guidance on Trees, Woodlands and Development. It is considered that the development of a house would prejudice this existing tree cover and accordingly the proposal is not considered to accord with policy 58 Natural, built and cultural heritage, or policy 53 Principle of Development in Woodland of the Highland Wide Local Development Plan (Proposed Plan September 2010), and the Highland Structure Plan policy G2 Design for Sustainability, as it would have a significantly detrimental impact on the landscape and habitat resource of the woodland.

DELEGATED REPORT

<b>Reference:</b>	10/03519/PIP	<b>Case Officer</b>	Bob Robertson	<b>Tel.</b>	01408 635371
<b>Address:</b>	Land South Of Tigh Na Greine Quebec Bridge Tain				
<b>Proposal:</b>	Erection of house				
<b>Ward:</b>	08 - Tain And Easter Ross				
<b>Advertised:</b>	Neighbour	<b>Closing Date for Reps:</b>	17.09.2010		
<b>Timeous Reps:</b>	<b>For :</b> 0	<b>Against:</b> 0	<b>Neutral:</b> 0		
<b>Target Date:</b>	23.10.2010	<b>Met n</b>	<b>Reason not met:</b> Update on garden ground policy for Housing in Countryside Interim Supplementary Guidance		
<b>Quality Indicator:</b>					

**Planning History**

YES

NO

Details:

**DEVELOPMENT PLAN**

ACCORD

CONFLICT

Highland Structure Plan:

Policies: G1, G2, H3

Interim Supplementary Guidance: Housing in the Countryside and Siting and Design

Trees, Woodlands and Development: Draft Supplementary Guidance

Ross and Cromarty East Local Plan:

Policies: BP3 – The Council will only approve development if there are no significant adverse effects on heritage, amenity, public health and safety issues.

Highland Wide Local Development Plan – Proposed Plan September 2010:

Policies: 29 Sustainable Design  
36 Housing in the Countryside (Hinterland areas)  
53 Principle of Development in Woodland  
58 Natural, built and cultural heritage

**Additional Policy/Supplementary Guidance**

ACCORD

CONFLICT

National Planning Policy

Extensions Policy/Shopfront Policy

Development Plan Policy Guidelines - HIC

Design Guide/Development Brief

Others

**CONSULTATIONS**

	CONSULTED	NO OBJECTIONS	OBJECTIONS	RESOLVED
TECS – Roads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scottish Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Historic Scotland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SNH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SEPA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Housing Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIAL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscape	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Forestry Officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Archaeology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contaminated Land – TECS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Others <i>specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Community Council</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **ASSESSMENT**

<b>Date of Site Visit:</b>	August 2010				
<b>Site Description:</b>	<p>The proposal seeks to establish the principal of developing the site for a single house. The site is located to the south of both Tigh na Greine and the access track leading to the forestry plantation to the west; and to the west of the Scotsburn Road. The original access to Tigh na Greine from the Scotsburn Road is closer to it than the currently used principal access – that which leads vehicle traffic to the forest. This original access is a little overgrown and enclosed by vegetation. The newer forestry access is much wider and to a modern standard. The southern boundary of the site is formed by the Aldie Burn. There is considerable tree cover in the area, with it being identified as Ancient Woodland, with the site consisting mainly of birch, with a small group of mature conifers located immediately to the east of the indicative house position.. To the immediate west and south of the application site is the Morangie Forest Special Protection Area (SPA). The site generally slopes towards the south.</p>				
<b>Material Considerations:</b>	The planning assessment takes account of the following and other matters identified in the main issues section:				
<input checked="" type="checkbox"/>	Layout	<input type="checkbox"/>	Consultee comments	<input type="checkbox"/>	Conservation area
<input type="checkbox"/>	Design and materials	<input checked="" type="checkbox"/>	Car parking, access and servicing	<input type="checkbox"/>	Listed building
<input checked="" type="checkbox"/>	Trees and landscaping	<input type="checkbox"/>	Noise	<input checked="" type="checkbox"/>	Infrastructure/drainage
<input type="checkbox"/>	Residential amenity/impact on neighbours	<input type="checkbox"/>	Privacy/Day-lighting	<input type="checkbox"/>	Planning history
<input type="checkbox"/>	Representations	<input type="checkbox"/>	Public Safety	<input type="checkbox"/>	Other:
<b><u>Consultations:</u></b>					
<p><b>Contaminated Land Unit</b> – A gravel pit was located on the eastern part of the site between approximately 1906 to 1959. It is possible that this pit has been infilled with waste and is therefore potentially contaminative. A suspensive condition may be required relating to land contamination.</p>					

**Access Officer** - This site is bordered by a right of way on the northern edge. The applicant has noted this in their application.

Access on this path should not be obstructed or deterred before, during or after construction of the development. This would include any of the following

- The placing of materials on the path
- Allowing water, soil or any other substance to flow or spill onto the path.
- Erecting any fence or locked gates,
- Prohibitory signs or notices.
- Plant or overhang any vegetation on the path
- Projections from building
- Park vehicles or place other structures

## **SEPA**

01.09.2010 - It is noted that parts of the application site lie within the 1 in 200 year flood envelope of the Indicative River and Coastal Flood Map (Scotland). Furthermore, the Aldie Burn is bridged by Quebec Bridge directly downstream of the site which could potentially increase the risk of flooding to the site. SEPA objects until a Flood Risk Assessment is provided in support of the application. We will remove our objection on flood risk grounds if a Flood Risk Assessment demonstrated that the development accords with the principles of Scottish Planning Policy.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk the application must be notified to the Scottish Ministers as per The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

08.09.2010 - Topographic information for the development has now been provided which indicates that the proposed dwellinghouse position is at least 15m above normal water levels in the River Tain. The applicant has also confirmed that the soffit level of Quebec Bridge is approximately 9m above the bed level of the River Tain. In this instance, we are satisfied that a significant level difference exists between the proposed house and adjacent watercourse and therefore based on this information we are satisfied that the proposal complies with Scottish Planning Policy and our objection is removed.

**Scottish Water** – No objections

**Area Roads and Community Works Manager** – Visibility is restricted by carriageway geometry to the north to 80m and by nearside banking to 50m. The adjacent access (25m to the north) which currently appears to be restricted to pedestrians could be engineered for vehicular access as the visibility is much better at this location. If the applicant can demonstrate that visibility splays 2.5m x 120m can be achieved in both directions, then no objections. If not then refusal is recommended.

**Forestry Officer** – Garden ground has recently been defined in the Interim Supplementary Guidance: Housing in the Countryside and Siting and Design.

For the purposes of this consultation, the area is being treated as woodland, which can be defined as follows: *The part of woods and forests where the ecological condition is, or will be, strongly influenced by the tree canopy. This embraces land under stands of trees with a canopy cover of at least 20%, or having the potential to achieve this, including integral open space, and including felled areas that are awaiting restocking. The minimum area is 0.1 hectares.* (Ref. Guidance on implementing the Scottish Government's policy on the Control of Woodland Removal).

The woodland on and surrounding this site is listed in SNH's Inventory of Ancient Woodland as

**2a Long Established Woodland of Semi Natural Origin.** While some of the adjacent woodland has since been planted with conifer species, the woodland within the site remains relatively intact and is clearly visible from the Quebec Bridge.

Scottish Planning Policy (Landscape and Natural Heritage) gives guidance on how the Scottish Executive's policies for the conservation and enhancement of Scotland's natural heritage should be reflected in land use planning.

Section 146 (Trees and Woodland) states that: '*Ancient and semi-natural woodland is an important and irreplaceable national resource that should be protected and enhanced, as should other native and long established woodlands with high nature conservation value.*'

Policy 58 (Natural, Built and Cultural Heritage) of the Highland wide Local Development Plan (Proposed Plan) identifies this type of woodland as a feature of **national importance** and will only allow developments that can be shown not to compromise the amenity and heritage resource.

Policy 53 (Principle of Development in Woodland) states that: '*...there will be a stronger presumption against development where it affects inventoried woodlands...*'

Section 4.2 of the emerging Supplementary Guidance on Trees, Woodlands and Development provides further information on development within woodlands which again does not favour development within this type of woodland.

The site consists mainly of birch, with a small group of mature conifers located immediately to the east of the indicative house position (currently occupied by a small fenced enclosure), as shown on the Indicative Layout (Plan No.1).

Plan No.2 gives an indication as to tree retention/removal, yet this does not correspond with Plan No.4, which shows the soakaway extending into an area of retained trees.

From the limited details provided by the applicant, I would consider the proposed development to have a greater impact on woodland than currently identified.

**Given that the proposed site does not conform with the above policies, I am not in a position to support the application.**

### **Planning Policy**

The site lies within the Hinterland of Towns as set out by the Structure Plan policy H3 Housing in the Countryside (and also within policy 36 of the Highland Wide Local Development Plan – Proposed Plan September 2010) and in particular to the **Interim Supplementary Guidance: Housing in the Countryside and Siting and Design**. This Guidance was approved by the Planning, Environment and Development Committee on 3 August 2011.

The Housing policy does not favour the development of housing in the area unless it meets one of the exceptions to the policy including:

- the development of a housing group;
- conversion and rehabilitation of redundant buildings and development of brownfield land;
- agricultural need; and
- garden ground

It is the last exception which the applicant has identified in support of the proposal. The guidance allows for the subdivision of existing garden ground for a single house provided that

the garden has clearly defined boundaries and meets the requirements in terms of siting and design. Development should also be able to deliver an appropriate plot ratio for a countryside location and be cohesive and not incongruous to the existing house. Proposals must meet the criteria specified in the Siting and Design guidance.

Members will note that the definition of garden ground is therefore key to the assessment of the application. The Interim Supplementary Guidance details that land shall be defined as garden ground only where it meets the following criteria:

- has a clear boundary defining the extent of formal garden ground;
  - is clearly tended to/looked after/maintained/developed;
  - is not separated from the house by a burn, road, track or other feature – i.e. the ground is directly related to the house.
  - have signs of formal usage in the way of man-made semi-permanent structures and there should be evidence that these have been used on a regular basis rather than just recently placed there
- such structures would be sheds, summer houses, seats and picnic furniture and regular use might for example be identified by well-trodden paths to the structure, or at the base of seats / tables.
- temporary structures such as plastic sandpits, children's toys etc would not constitute usage under this heading.

Garden ground shall not include areas of ground that accommodate stables/horses and/or other non-domestic animals with associated accommodation.

The emerging **Trees, Woodlands and Development: Draft Supplementary Guidance** is a material consideration in the assessment of the application. In addition, the site is identified on the Inventory of Ancient Woodland as 2a Long Established Woodland of Semi Natural Origin.

### **Planning Assessment**

Tigh na Greine has a clearly defined immediate garden, with a formal edge being provided by the access drive from the Scotsburn Road and a mature mix of boundary species including large rhododendron and various trees. This does give a sense of enclosure to the garden and a setting for the house.

The site is within the ownership of the applicant and has been used for the growing of fruit and vegetables, with the planting of shrubs. The applicant has therefore indicated that there is a horticultural use of the site associated with Tigh na Greine.

The supporting information suggests that a pedestrian right of way passes through the site and the formal areas have been constructed over the years. In addition a driveway sweeps through the garden and across the right of way giving access from the public road to both the house and the proposed house site. The existing house and proposed site are around 80m apart.

The applicant has argued that the proposed site does lie within the garden ground of Tigh na Greine. It is considered that whilst the site is certainly associated with Tigh na Greine in terms of its use for growing of fruits and vegetables, it is physically separated from the house and its own discreet, clearly set out and established garden area, all forming the immediate curtilage of the house. This separation is made by the original house access and the newer access to the forest, both of which lie to the south of and separate the house from the proposed house site. Accordingly, the development of the site fails the test of the Guidance as it is separated from the house by a road / track or other feature – that is the garden ground which is directly related to the house and its immediate curtilage. Furthermore, the existing house does have a clearly defined garden boundary provided by hedging and giving privacy and a sense of enclosure.

The application site lies outside of this clearly defined immediate garden area surrounding the house.

Accordingly, it is considered that the proposal does not meet the tests of 'garden ground' as detailed in the Interim Supplementary Guidance, although there is clearly an ownership and usage of the site associated with Tigh na Greine.

The development of the site which lies within an area of woodland identified as Long Established Woodland of Semi Natural Origin would not accord with the Planning Authority's Draft Supplementary Guidance on Trees, Woodlands and Development. It is considered that the development of a house would prejudice this existing tree cover and accordingly the proposal is not considered to accord with policy 53 Principle of Development in Woodland of the Highland Wide Local Development Plan – Proposed Plan September 2010.

**The proposal is therefore considered to be contrary to the development plan policies and supplementary guidance and refusal is recommended.**

### **DELEGATED DECISION**

<b>Decision</b>	<b>Refusal</b>	
<b>Action required before decision issued?</b>	y	
Notification to Scottish Ministers	n	<b>Reason :</b>
Notification to Historic Scotland	n	<b>Reason :</b>
Referral to Ward Members	y	<b>Reason :</b> Contrary to development plan policy
Conclusion of Section 75 Agreement	n	<b>Reason :</b>
Revocation of previous permission	n	<b>Reason :</b>

### **SIGNATURE**

Case Officer: Bob Robertson \_\_\_\_\_

Date: 25 August 2011

AM/TL: Bob Robertson \_\_\_\_\_

Date: 25 August 2011

### **REASON FOR REFUSAL RELATIVE TO APPLICATION 10/03519/PIP**

(1.) The development does not accord with the Highland Structure Plan policy H3 Housing in the Countryside, the Highland Wide Local Development Plan (Proposed Plan September 2010) policy 36, and in particular to the Interim Supplementary Guidance: Housing in the Countryside and Siting and Design (August 2011) in respect of the provisions relating to the development of garden ground. In particular, as the application site lies outside of the existing clearly defined immediate garden area surrounding Tigh na Greine it does not meet the requirements of the policy as it is not garden ground as defined by the policy – that is that it is

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## CHECK SHEET FOR PREPARING AND ISSUING DECISION

Application Number	10/03519/PIP
Decision Date	23.08.2011
Decision	REFUSE
Decision Type	Delegated

Date signed by AM/TL or Committee date

Don't Issue Decision	Tick if relevant	Action (tick)	Date sent
Notification to Scottish Ministers			
Notification to Historic Scotland			
Refer to Ward Members			
Section 75 Obligation			
Revocation			

Issue Decision		Tick	Standard Conditions/Notes to include				
Tick	Dev/Decision Type	Time Scale*	Initiation	Completion	Display Notice	1A & 2A	1B & 2B
			Only use if FUL/AMSC & Granted				
	National						
	Major						
	Local – Sch.3 - Committee						
	Local – Sch.3 – Delegated						
	Local – Committee						
	Local – Delegated	✓	✓	✓		✓	

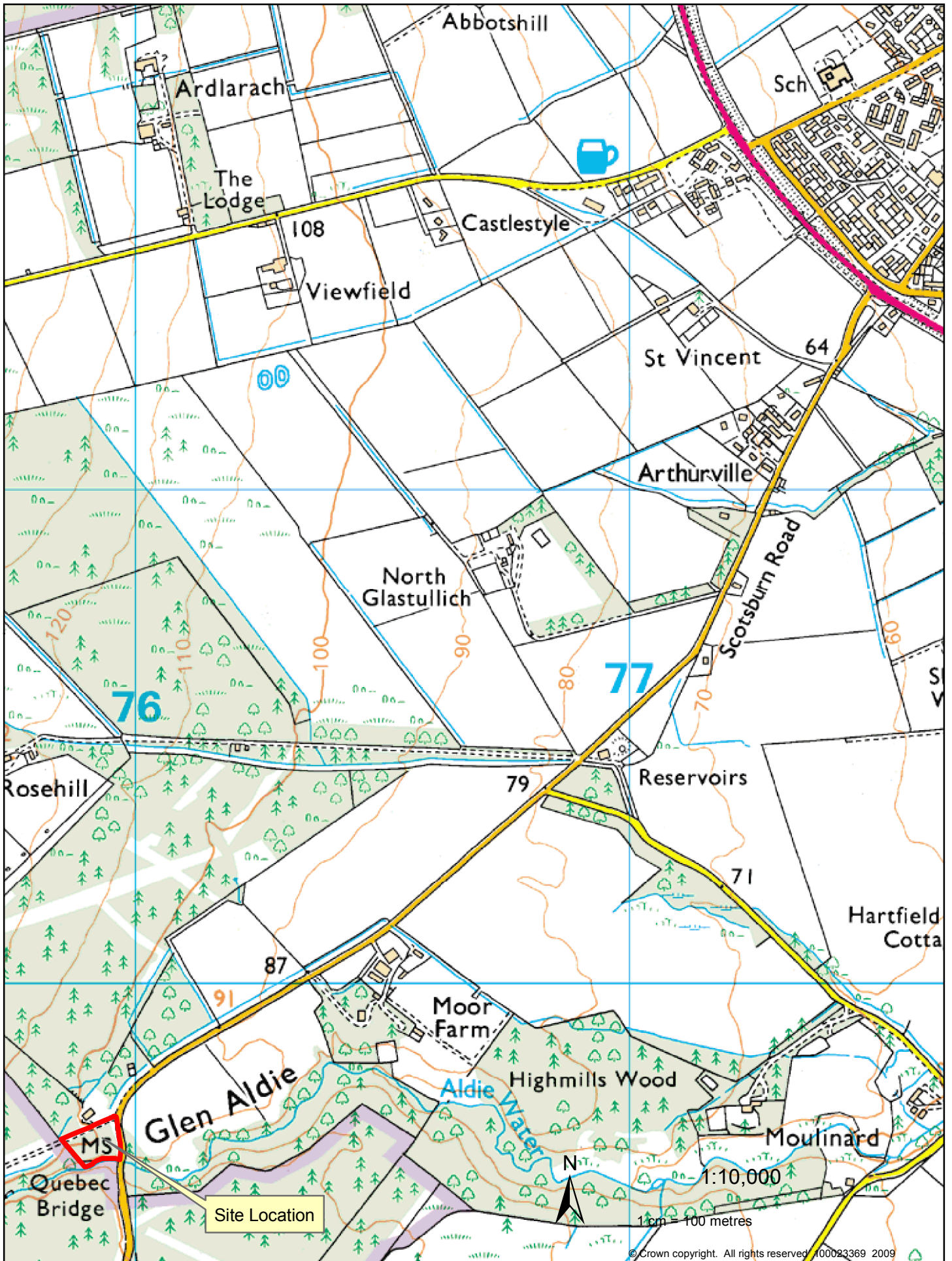
\*standard time condition not required if application retrospective.

Include with Decision Notice	
Terms of Section 75	
Summary of Variations made	
Notification of Initiation Form	
Notification of Completion Form	
Notice for Display	
Roads Schedule	
Contaminated Land Form	
Private Water Supply Form	
Archaeology Guidance	
Other:	

Notify of Decision	
Objectors/Contributors	
Community Council	
Roads	
Development Plans – Brian Mackenzie	X
Forestry Officer – Nick Richards	x
Ongoing Monitoring	
Other:	

Total residential units FP3			
Houses		Sheltered	

Flats		Affordable	
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10/03519/PIP  
 Erection of house at  
 Land South of Tigh Na Greine, Quebec Bridge, Tain.

Mr Dave MacDonald  
 Tigh Na Greine  
 Quebec Bridge  
 Tain  
 IV19 1NG





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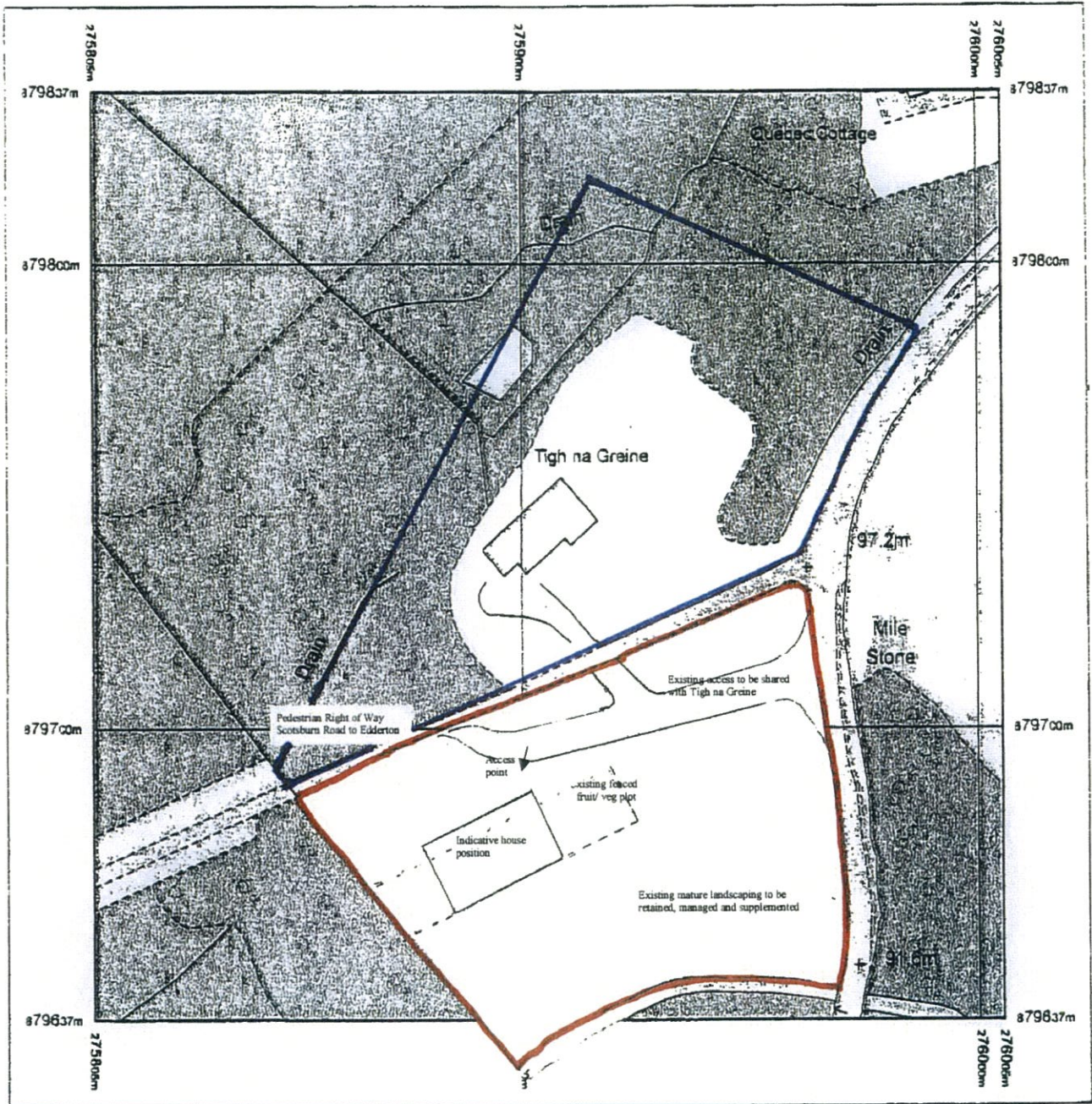
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**Ordnance Survey**



17 AUG 2010

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Outline application Indicative Layout Plan No. 1 August 2010	
Tigh na Greine	
Quebec Bridge	
Tain	