

**THE HIGHLAND COUNCIL**

**NORTH PLANNING APPLICATIONS COMMITTEE – 29  
April 2014**

Agenda Item	6.4
Report No	PLN/035/14

**13/04610/FUL : Mr Malcolm MacKenzie  
Land 250M NW Of Camus Fearn, Plockton**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Erection of house and installation of foul drainage system

**Recommendation - GRANT**

**Ward :** 06 - Wester Ross, Strathpeffer And Lochalsh

**Development category :** Local Development

**Pre-determination hearing :** Not required

**Reason referred to Committee :** Five objections

**1. PROPOSED DEVELOPMENT**

- 1.1 This application is for the erection of a house and installation of associated foul drainage system. The proposed house split into two parts, to appear as a one and a half storey house with a single storey annex. Both parts have a rectangular form with dual pitched roofs. External finishing materials proposed are vertical larch timber cladding for walls and Spanish slate for the roof.
- 1.2 It is proposed to connect to the public water supply. Foul drainage will be to a private system with outfall to the sea. There is an existing private access track from the public road which will be used to access the site. Information submitted by the applicant indicates that the track is a croft township track and that it is used on a daily basis to access croft land. There is an existing gate at the junction of the private track and the public road.

**2. SITE DESCRIPTION**

- 2.1 The site is located outwith Plockton, to the west of the village and the air strip. The site is located on the coast and is relatively isolated from public view. The house site is generally flat is currently a green field in active crofting use for livestock.

**3. PLANNING HISTORY**

- 3.1 No recent formal planning history.

Informal pre-application discussions were held with the local planning office and general support was given to the principle of development.

#### **4. PUBLIC PARTICIPATION**

##### **4.1 Advertised : Unknown neighbour**

Representation deadline : 21 February 2014

Timeous representations : 2 in support  
4 against

Late representations : 1 against

##### **4.2 Material considerations raised are summarised as follows:**

###### **Objections**

- Existing access, including visibility splays, is insufficient and should be upgraded.
- Existing visibility splays cannot be maintained as the land on either side of the junction is privately owned.
- The existing junction does not have a sufficient turning arc suitable for vans or lorries to enter.
- Road safety concerns arising from substandard access. The public road is busy with cars, pedestrians and cyclists and vehicles can sometime travel very fast.
- The proposal should comply with the Council's document Access to Single Houses and Small Scale Housing Developments.
- Proposal will not comply with Building Regulations regarding minimum width of access and access for emergency service.
- There are no existing services to the site.
- The proposal is contrary to the local plan.
- The proposal is out of character to the nearby linear croft house development.
- New residential development should be directed to the settlement development area identified by the development plan.
- The site is within an area which currently offers amenity in the form of access, cultural and natural heritage and landscape value. The proposal poses a risk to the relatively unspoilt nature of the land features, the seascape and potentially the marine habitat in this location. The site is important because it is a pocket of accessible relatively wild land within close proximity to the busy village of Plockton.
- The proposal will set a precedent for further residential development in this location
- The site is used by birds and is crossed by otters from the sea to boggy areas to feed and rest. Development of the site would impact on their use of the land

- Loss of privacy for neighbouring properties.
- Disturbance to neighbouring properties.

#### Support

- Proposed house will enhance the area and relates to existing development. The applicants contribute to the local economy.
- 

The applicant has submitted comments in response to points raised in representations, in summary:

- The site forms part of a working croft which is accessed daily by car via the existing access track to feed livestock.
- The Fire Service has access to 4x4 vehicles and has sea water pumps. A sprinkler system could be installed in the house
- Small vehicles can be used for delivery of construction materials.
- The site access exits onto a small single track public road with very occasional traffic (it is a dead end road). Average speeds are much below 30mph. There have never been any issues exiting onto the public road and approaching traffic is visible. The proposal should be considered in its context, i.e. access to a single croft house, the access is not on to a busy highway. The existing access is better than that to many other croft access roads in the area, including Plockton Brae which leads to 3 new croft houses and the recently granted development at Achnahenich Farmhouse, Plockton (11/00336/FUL).
- Development of a single croft house will not be detrimental to the landscape or affect people's enjoyment of the area. The development will not prevent people walking down to the beach and enjoying the area. The proposal has a sympathetic design that will blend into and enhance the setting.
- Birds found within the site are present widely in the general vicinity including the working airstrip and around other domestic developments.
- Housing in general is in very short supply and affordable housing is inaccessible unless specific criteria are met. Many young people and families can no longer afford to live in Plockton or to move back to the area. This is fuelled by the increasing amount of second homes in the village and the cost of property. The proposal will allow the croft to be worked and the applicants to remain in the community and to run a business which contributes to the local economy.

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). Access to computers can be made available via Planning and Development Service offices.

## 5. CONSULTATIONS

5.1 **Access Officer** : Access to the site appears to share part of the promoted route to Camus Dubh-aird. The route should not be obstructed during or after the

construction phase.

- 5.2 **Building Standards** : Every house should be provided with a vehicle access route for fire-fighting from a public road to not more than 45m from any door giving direct access to the interior of the building. A suitable turning area will also be required. Consultation will be carried out the local Fire Prevention Officer during the processing of any building warrant. Further details will be required at building warrant stage including details of site conditions, drainage and surface water design.
- 5.3 **TECS Roads** : The gate set back and junction geometry does not conform with the Council's Access to Single Houses and Small Housing Developments. The junction is enabled by a 3.6m wide gate but this in itself is not enough to enable access or egress to long construction type vehicles. The useable wheel track of the private access track is only 1.9m, this creates a conflict with basic servicing provision for fire and emergency access in terms of Building Regulations. Road speeds of 30mph require visibility splays of 2.4m x 90m or thereby. Only 2.4m x 8m can currently be achieved in both directions without sterilisation and control over neighbouring land. The negative visibility yield is constrained by the existing fence line set back of 1.4m and is influenced by the applicant's failure to demonstrate any land control that would enable improvement.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

### 6.1 Highland Wide Local Development Plan 2012

Policy 36	Development in the Wider Countryside
Policy 28	Sustainable Design
Policy 65	Waste Water Treatment
Policy 57	Natural, Built and Cultural Heritage
Policy 61	Landscape

### 6.2 West Highland and Islands Local Plan (as continued in force 2012)

Wider countryside

## 7. OTHER MATERIAL CONSIDERATIONS

### 7.1 Draft Development Plan

Not applicable

### 7.2 Highland Council Supplementary Planning Policy Guidance

Housing in the Countryside and Siting and Design

### 7.3 Scottish Government Planning Policy and Guidance

## **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**

The site is located in an area identified as wider countryside by the development plan which comprises the adopted Highland wide Local Development Plan (2012) and the adopted Highland and Islands Local Plan (as continued in force 2012).

8.4 The determining policies for assessment of this proposal are Policy 36 and Policy 28 of the adopted Highland wide Local Development Plan. Policy 36 of the adopted Highland wide Local Development Plan is applicable to proposals for development in wider countryside. Policy 36 requires proposals to be assessed by the extent to which they:

- are acceptable in terms of siting and design;
- are sympathetic to existing patterns of development in the area;
- are compatible with landscape character and capacity;
- avoid incremental expansion of one particular development type within a landscape whose distinct character relies on an intrinsic mix/distribution of a range of characteristics;
- avoid where possible, the loss of locally important croft land; and
- would address drainage constraints and can otherwise be adequately serviced, particularly in terms of foul drainage, road access and water supply, without involving undue public expenditure or infrastructure that would be out of keeping with the rural character of the area.

Policy 36 also states that regard will be had to the extent to which proposals help, if at all to support rural communities in Fragile Areas (as defined by Highlands and Islands Enterprise) in maintaining their population and services by helping to repopulate communities and strengthen services.

8.5 Policy 28 provides sustainable design criteria for assessment of all proposals. Of particular relevance to this proposal are criteria relating to:

- compatibility with public service provision and accessibility
- impact on individual and community residential amenity
- impact on non renewable resources
- siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials

8.6 Policy 57 of the adopted Highland wide Local Development Plan is applicable because the site is identified as an area of great landscape value. The coastline around Plockton is also identified as undeveloped by the Council's Coastal Development Strategy. Policy 57 requires proposals to demonstrate that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. Policy 61 requires proposals to be designed to reflect landscape characteristics. Policy 65 provides for private drainage system where a connection to the public sewer is not possible.

## 8.7 **Material Considerations**

8.8 The house site is remote from the village, the closest houses are located in a linear pattern along the public road to the east/ south east of the site, where the access to the site is taken from. The distance from existing houses and the landscape mean that the house site is not visually prominent and is not viewed as part of the existing linear group of houses. It is not considered that development of this scale will have a significant impact on scenery or enjoyment of the countryside and the siting of the proposal is acceptable in landscape and visual terms. The design of development has been considered in order to set it low in the landscape. Pre-application discussions took place with the applicant regarding the design and it is considered that in the site's context the design is acceptable. The use of larch cladding and natural slate is appropriate in this location.

8.9 In terms of natural heritage and protected species, the site is not subject to any specific natural heritage designation. A representation submitted by a third party states that the site is used by otters. The onus is on the applicants to demonstrate that they have no prior knowledge of a holt or couch on the site and that reasonable steps have been taken to check for their presence on site have been taken. Following informal discussions with SNH, the applicants were asked to submit an otter survey. The survey, prepared by a wildlife consultant, concludes that there are no natal holts within the 200m minimum distance from the proposed plot and that there are no holt or resting sites of any status within 300m of the proposed plot. It is not considered that the proposal will impact significantly on bird species.

8.10 The proposal does not raise any concerns regarding residential amenity due to the isolated nature of the house site. The level of traffic generated by a single house on the existing public road and private access track will not result in an unacceptable level of disturbance. The site is currently accessed daily by the applicant's to tend to their livestock on the croft.

8.11 It is not considered that development of a single house in this location will result in an unacceptable loss of croft land. The applicants have indicated that they intend to continue to work the croft.

8.12 The proposed servicing arrangements in terms of drainage and water supply are acceptable and will be addressed in further detail at building warrant and SEPA CAR licencing stages. The discharge of foul drainage to the sea will be regulated by the CAR licence and therefore there should be no issues of pollution.

- 8.13 There is an existing access to the site via a private croft township track as noted in section 1.2. The application as originally submitted did not include any proposals to alter the existing track or its junction with the public road. Representations received and comments from TECS Roads, have raised issues over the adequacy of the existing junction to support the proposed development, summarised above in sections 4.2 and 5.3.
- 8.14 The Council has produced guidance on the design and construction of private accesses onto the public road for Single Houses and Small Housing Developments. The existing access does not strictly comply with the guidance in that the existing visibility splays fall short of the 2.4m x 90m promoted by the guidance and there is no service bay proposed at the junction. However, this document is guidance and each case requires to be assessed on its merits. The Planning Authority has discretion to deviate from the guidance, taking into account the characteristics of individual sites to ensure that any upgrade required is proportionate.

In this case the private track exits onto a single track public road with passing places. The existing access currently provides access to croft land and the applicants have stated that they access the site on a daily basis, using a vehicle, to tend to their livestock. There is a gate at the junction of the track and the public road which is 3.6m wide. This section of public road is straight, parallel to the airstrip, and gradually slopes downhill to the south. The public road serves four houses and croft land to the north beyond the site before the public road terminates in a dead end. Traffic speeds are judged to be low. There is a house to the south side of the junction of the private track with the public road, and land including an agricultural shed is to the north of the junction. The main barrier to visibility is the existing gate posts and the post and wire fences on either side. The road verges within proximity of the site are grass and low level vegetation.

It has been agreed through negotiations with the applicant that a condition should be attached to any planning permission for the site to require the existing gate to be set back from its current position. This will allow vehicles to pull off the public road whilst opening the gate to access the private track. Repositioning the gate posts will also aid visibility from the junction. The applicant will require permission of the landowner/interested parties to undertake this work, but this is a civil matter outwith the remit of the planning system. It is acknowledged that the applicants do not have control over land on either side of the access, this being garden ground associated with a house and croft land associated with an agricultural shed. The planning system has control over development within the curtilage of houses and within croft/agricultural land in terms of the provisions of The Town and Country Planning (General Permitted Development)(Scotland) Order 1992. Refuse bins are currently collected from a communal point on the public road to the south of the site. In this regard there is no need for the formation of an individual refuse bin storage area at the junction of the site and the public road.

In addition to the repositioning of the gate, the applicants have agreed to upgrade the existing informal passing place, which is located on the opposite side of the public road from the site access. The upgrade works can be carried out within the boundaries of the public road. Upgrading works will include widening and surfacing of the existing informal passing place.

- 8.15 Taking into account the characteristics of the site and surrounding area, it is considered that repositioning of the existing gate and upgrading of the existing informal passing place is a sufficient and proportionate upgrade to accommodate the type and scale of development proposed. Failure to strictly comply with the guidance for Access to Single and Small Housing Developments does not warrant refusal of the application and overall, no material loss of road safety will result from the development.
- 8.16 TECS Roads, Building Standards and third parties have noted that the useable wheel width of the existing private track is 1.9m at points and that this creates a conflict with servicing provision for fire and emergency access as stated in the Building Scotland Regulations. It is not standard practice for the Planning Authority to consult with the Emergency Services during the processing of a planning application. The requirements for emergency access are laid down in Building Standards Regulations and as such this is a matter to be addressed during the building warrant process. Use of appropriate construction/delivery vehicles for the width of the track is a matter to be addressed by the developer.
- 8.17 It is not considered that the proposal will set an undesirable precedent for development, all planning applications require to be assessed on their own merits.

8.18 **Other Considerations raised by third parties – not material**

- The applicant does not control land that would be required if the access were to be upgraded, this would require agreement of crofters and the National Trust for Scotland.

Control over land/landownership is a civil matter outwith the remit of the planning system.

8.19 **Matters to be secured by Section 75 Agreement**

None

**9. CONCLUSION**

- 9.1 It is considered that the site can accommodate development comprising a single house without significant adverse impacts on landscape and amenity. The design of the house is in keeping with the general character of the area and use of high quality external finishing materials is proposed. The existing access falls short of the Council' guidance for Access to Single and Small Housing Developments, however it is considered in this context that repositioning of the gate and upgrading of the existing informal passing place is a sufficient and proportionate upgrade.
- 9.2 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. RECOMMENDATION**



## **Action required before decision issued N**

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

1. No development shall commence within the site until the existing gate at the junction of the private access track and the public road has been repositioned to maximise visibility splays and to allow vehicles to exit the public road to open the gate. The access shall be finished with cohesive material for a distance of at least 5m from the nearside edge of the public road. Detailed plans showing the repositioned gate visibility splays and surfacing shall first be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details and to the satisfaction of the Planning Authority and the Roads Authority.

Reason: In the interests of road safety to maximise visibility splays and to enable vehicles to exit the public road.

2. No development shall commence within the site until the existing informal passing place, located on the opposite side of the public road from the access to the site has been upgraded to include widening and surfacing. Detailed plans showing the upgrading of the passing place shall first be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details and to the satisfaction of the Planning Authority and the Roads Authority.

Reason: In the interests of road safety.

3. No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
  - i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
  - ii. A plan showing existing landscaping features and vegetation to be retained;
  - iii. The location and design, including materials, of any existing or proposed walls, fences and gates;
  - iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
  - v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

**Reason** : In order to ensure that a high standard of landscaping is achieved,

appropriate to the location of the site.

4. No development shall commence until details of existing and proposed ground levels and the buildings finished floor level in relation to an identified fixed datum point have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details.

**Reason :** In the interests of visual amenity.

5. Prior to the first occupation of the development hereby approved, two car parking spaces and turning shall be provided within the application site. Thereafter, all car parking spaces shall be maintained for this use in perpetuity.

**Reason :** To ensure that sufficient space is provided within the application site for the parking (and turning) of cars, so they do not have to park within or reverse onto the public road.

6. Public access to the promoted route to Camus Dubh-aird shall at no time be obstructed or deterred by construction-related activities, unless otherwise approved in writing by the Council's Access Officer as a temporary measure required for health and safety or operational purposes. Under such circumstances, any temporary obstruction or determent shall cover only the smallest area practicable and for the shortest duration possible, with waymarked diversions provided as necessary.

**Reason:** In order to safeguard public access during the construction phase of the development.

## **REASON FOR DECISION**

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

## **TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION**

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

## **FOOTNOTE TO APPLICANT**

### **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.

### **Accordance with Approved Plans & Conditions**

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). 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 adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

### **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 (p.198), 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 & 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).

**Protected Species - Halting of Work** You are advised that work on site must stop immediately, and Scottish Natural Heritage 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. This includes otters. 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 SNH: [www.snh.gov.uk/protectingscotlands-nature/protected-species](http://www.snh.gov.uk/protectingscotlands-nature/protected-species)

### **Mud & Debris on Road**

Please note that it is 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.

### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road opening permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. Consent may also be required for any works impacting upon the road surface, verge, drainage or any roadside footway or pavement. These consents may require additional work and/or

introduce additional specifications and you are therefore advised to contact your local TECS 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>

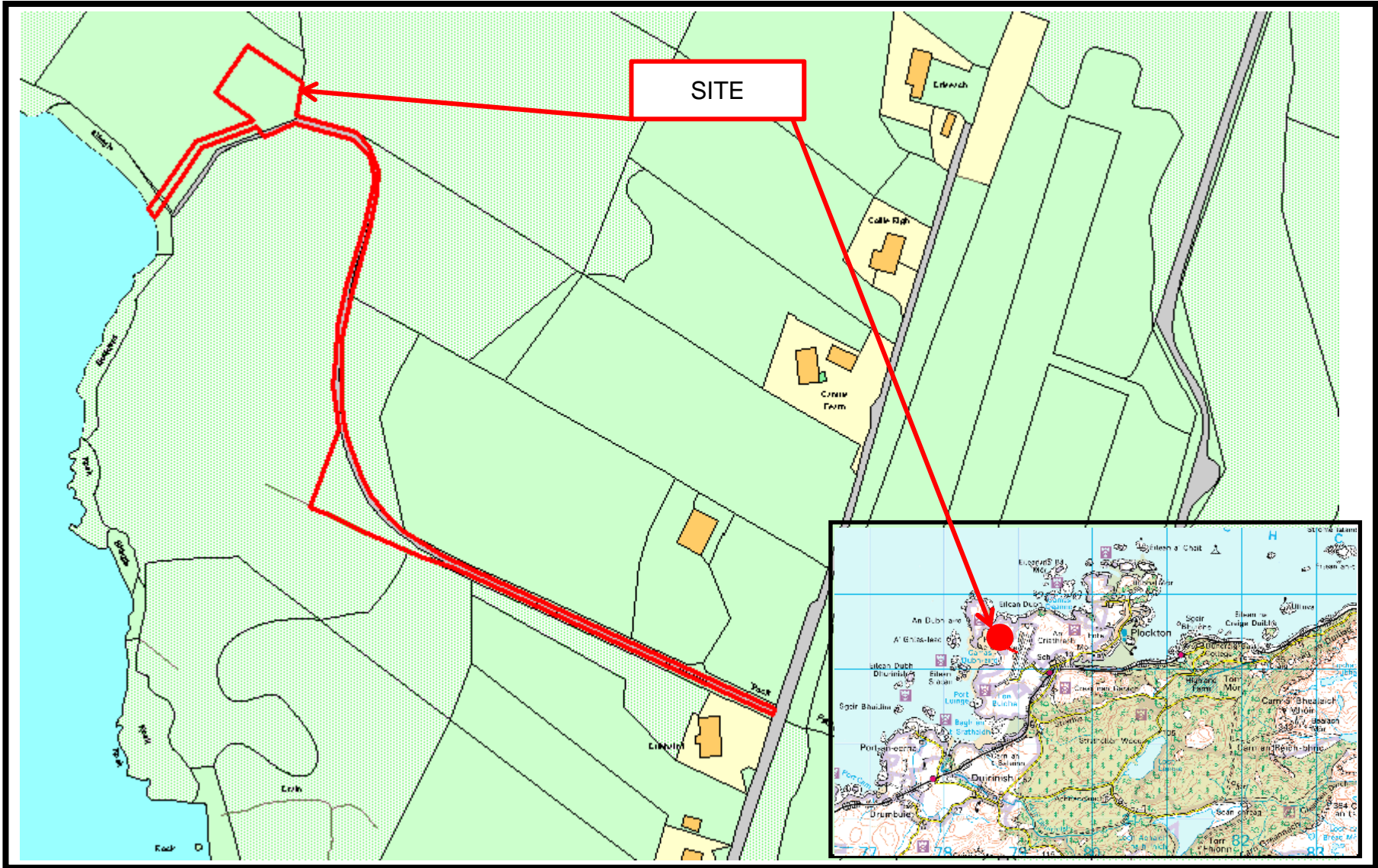
Application forms and guidance notes for access-related consents can be downloaded from:

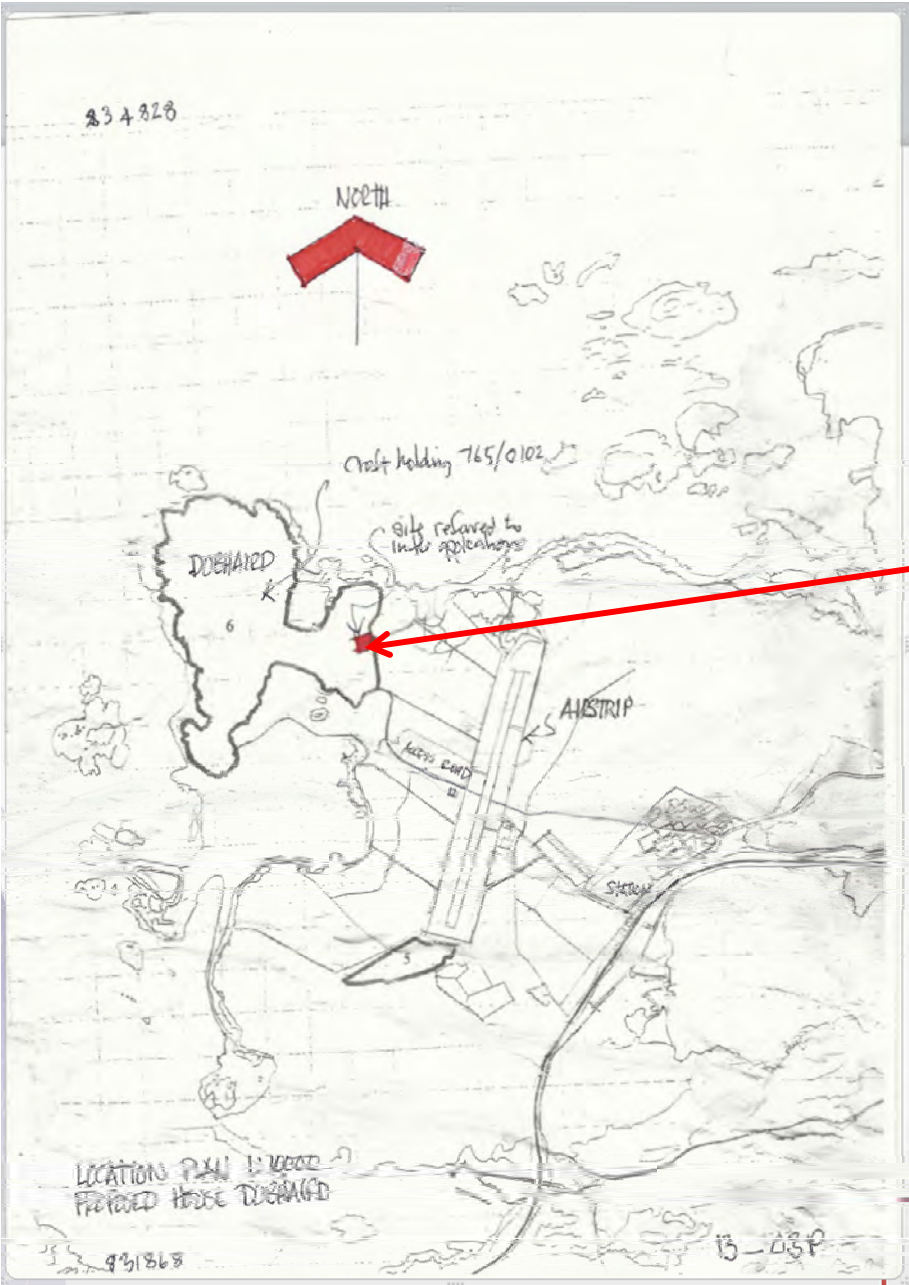
<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Signature: Dafydd Jones  
Designation: Area Planning Manager North  
Author: Emma Forbes  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan  
Plan 2 – Location Plan 00001 Rev A  
Plan 3 – Block Plan 13-02P Rev B  
Plan 4 – Elevations – 13-01P Rev A  
Plan 3 – Block Plan 00002

## Appendix – Letters of Representation

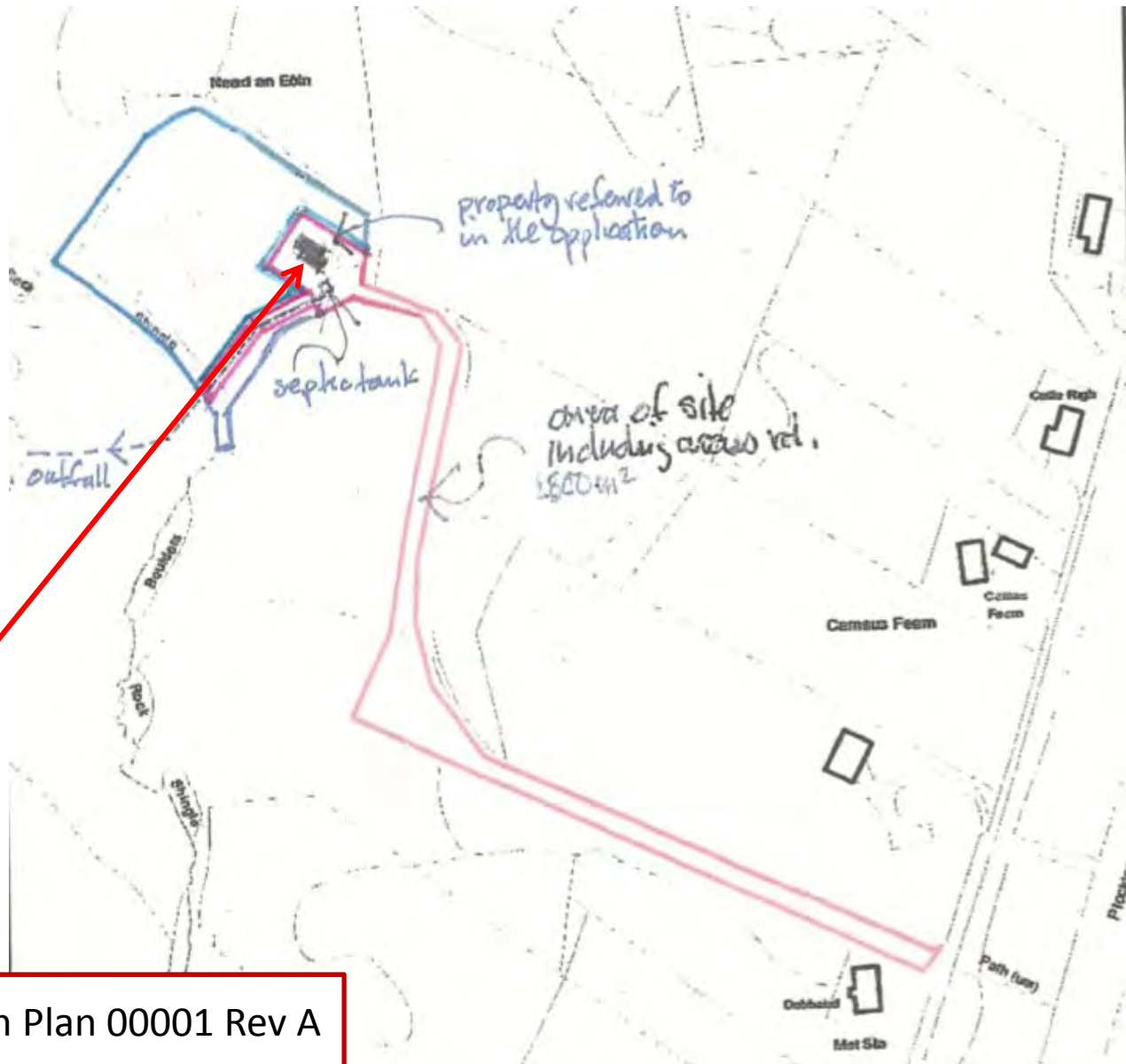
Name	Address	For/Against
Alan Hendry	Dubhaird Plockton IV52 8TU	Against
Alexander Townend	Rowan Barn Plockton IV52 8TU	Against
Catherine Will	5 Bank Street, Plockton IV52 8TP	Against
John Hendry	31 Benlaw Grove, Felton	Against
The National Trust for Scotland	40 Huntly Street, Inverness	Against
Ann MacKenzie	Hérons Flight, Plockton IV52 8TL	Support
Moira Newsome Linnington	Camus Fearn, Plockton IV52 8TU	Support





SITE

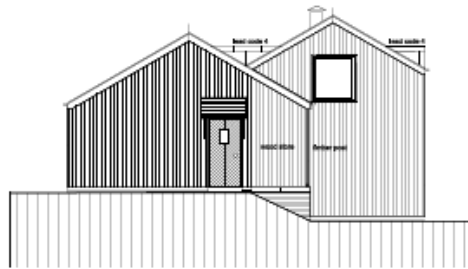
Plan 1 Location Plan



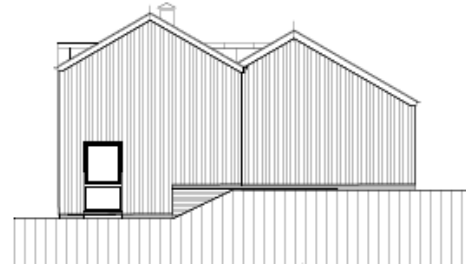
SITE

Plan 2 Location Plan 00001 Rev A

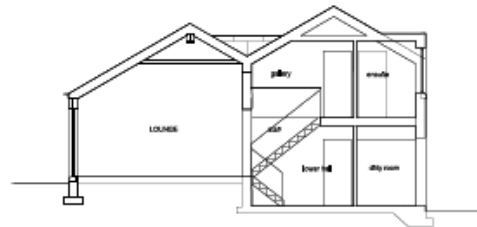




SOUTH EAST ELEVATION - ENTRANCE



NORTH WEST ELEVATION

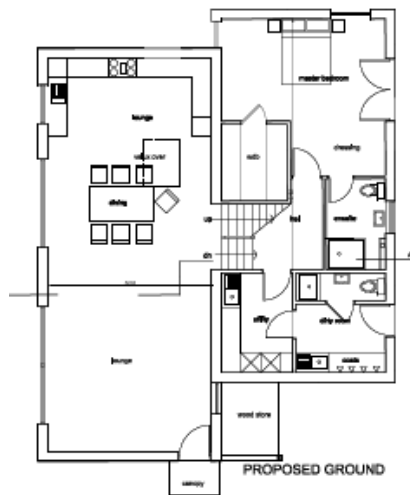


PROPOSED SECTION AA

- PLANNING NOTES**
1. WINDOWS - Composite windows by Nordan Ltd colour dark grey
  2. DOORS - doors by Nordan Ltd
  3. gray facing brick base course
  4. Vertical Larch timber cladding
  5. Spanish slate roof Heavy CUPA Deck
  6. Black Marley deepflow gutters and down pipes.
  7. Dry ridge and verge black
  8. dormers - code 4 lead.



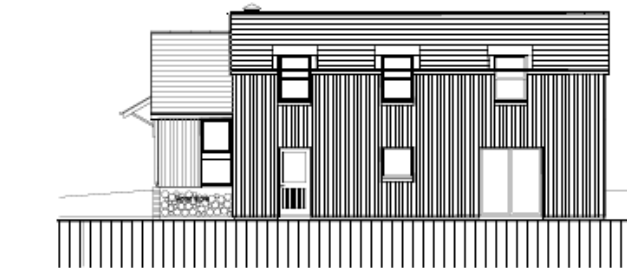
PROPOSED SOUTH WEST ELEVATION



PROPOSED GROUND

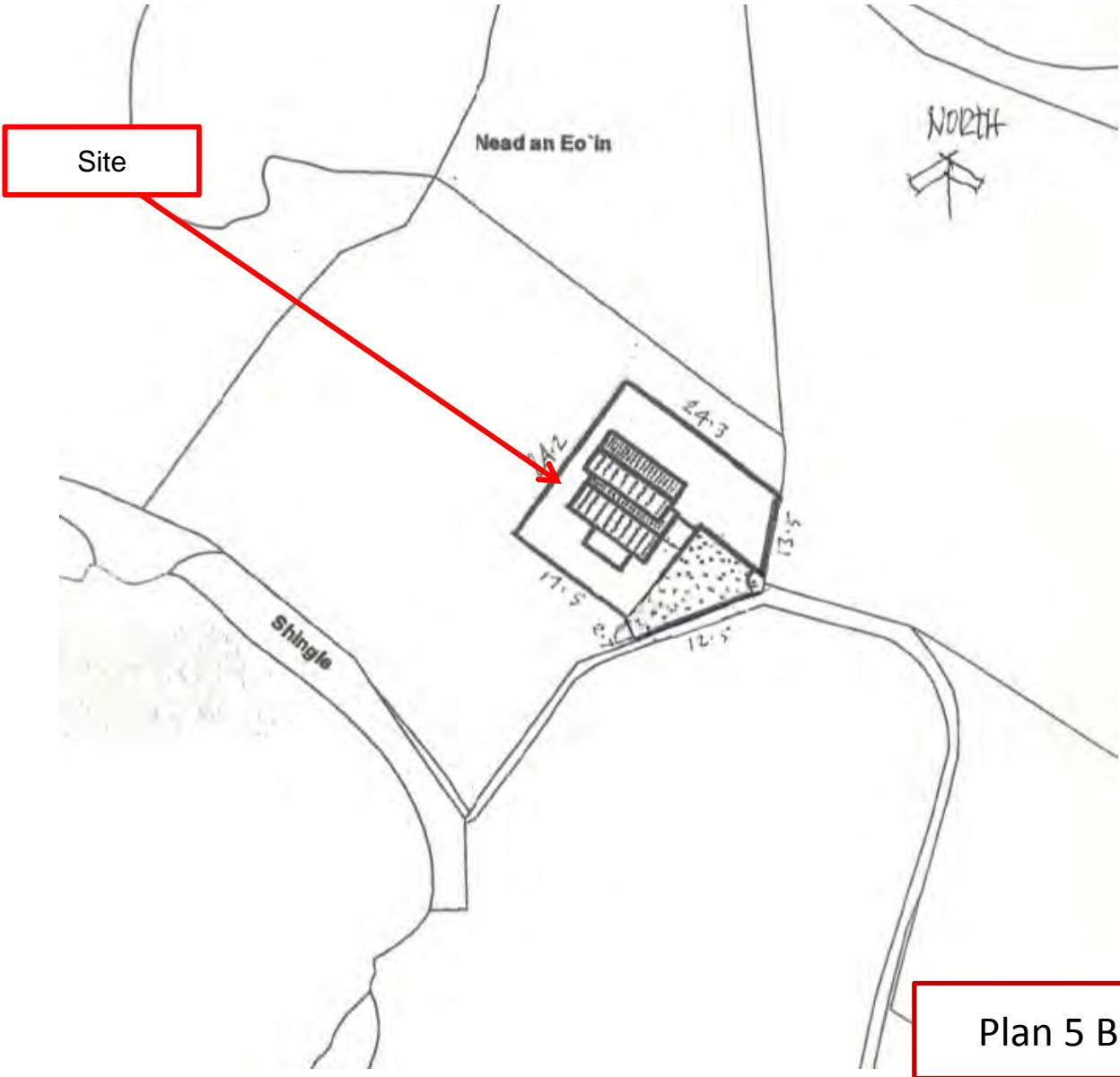


PROPOSED UPPER FLOOR PLAN



PROPOSED SOUTH EAST ELEVATION

Plan 4 Elevations 13-01p Rev A



Site

Plan 5 Block Plan 00002