

THE HIGHLAND COUNCIL

**SOUTH PLANNING APPLICATIONS COMMITTEE
19 August 2014**

Agenda Item	6.6
Report No	PLS/060/14

**14/02316/PIP: Mr J Wotherspoon
Land 160M SE of New House Buchanan, Kinerras, Kiltarlity**

Report by Area Planning Manager – South

SUMMARY

Description: Erection of house

Recommendation: **GRANT (SUBJECT TO S75)**

Ward: 13 - Aird and Loch Ness

Development category: Local

Pre-determination hearing: N/A

Reason referred to Committee: Timeous objections from members of the public residing at 5 or more separate addresses.

1. PROPOSAL

- 1.1 Planning Permission in Principle is sought for the erection of a house and associated works on croft land 115 metres to the south east of Druim at Kinerras.
- 1.2 The proposed development is served by roughly 220 metres of existing private track that extends from the U124 Kinerras Road. The house would have a private foul drainage system (mini treatment plant discharging to soakaway) and private water supply (borehole).
- 1.3 The applicant has confirmed that the proposed dwelling is for the management of the croft, and that he is willing to enter into a Section 75 Obligation to tie the house to the croft.

2. SITE DESCRIPTION

- 2.1 The application site (1221m²) is a square parcel of croft land, occupying a low lying position 130 metres south of the U124 Kinerras Road. There are several residential properties in the vicinity of this development - namely, New House Buchanan (160 metres to the north east), Cruive (310 metres to the west) and Knockvuy (290 metres to the south).

3. PLANNING HISTORY

- 3.1 07/00026/OUTIN – Outline permission for the erection of one house at Cruive, Kiltarlity. Permission granted.
- 13/04717/PIP - Erection of dwelling on Land to South of Cruive Croft, Kinerras, Kiltarlity. Application Refused.

4. PUBLIC PARTICIPATION

- 4.1 Advertised: 04.07.2014

Representation deadline: 18.07.2014

Timeous representations: 5

Late representations: 3 (2 from new households)

- 4.2 Material considerations raised are summarised as follows:

- This proposal is unacceptable unless the dwelling is required for the management of the croft.
- Services and infrastructure are currently at capacity; the approval of a further dwelling would be to the detriment of road safety and services (broadband, water pressure, sewerage, etc).
- The proposed Inner Moray Firth Local Development Plan is now a material planning consideration and the proposed inclusion of this area into the Inverness Hinterland has not been brought into question. Therefore Policy 35 of the Highland-wide Local Development Plan applies and a Section 75 Agreement should be sought to tie any house to the land.
- If Committee is minded to grant planning permission, it should be subject to a Section 75 Agreement tying the house to at least 90% of Cruive Croft.

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

5. CONSULTATIONS

- 5.1 **Transport Planning:** No objections. Conditions recommended.
- 5.2 **Forestry Officer:** No objections. Conditions recommended.
- 5.3 **Environmental Health:** No objections. Condition recommended.
- 5.4 **Historic Environment Team:** No objections. Condition recommended.

6. DEVELOPMENT PLAN POLICY

6.1 The following policies are relevant to the assessment of the application

Highland-wide Local Development Plan 2012

28	Sustainable Design
29	Design Quality and Place-Making
36	Development in the Wider Countryside
47	Safeguarding Inbye/AppORTioned Croftland
57	Natural, Built and Cultural Heritage
65	Waste Water Treatment
66	Surface Water Treatment

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Inner Moray Firth Proposed Local Development Plan

7.2 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (June 2011)

7.3 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, June 2014)

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

Through Policy 36 Development in the Wider Countryside, the Council identifies continued support for the development of rural areas in order to maintain population, infrastructure and services. The policy states that proposals outwith Settlement Development Areas and the Hinterland areas will be assessed on the extent to which they are acceptable in terms of siting and design and meet with the terms of Policy 28.

In particular this requires a proposal to be sympathetic to existing patterns of development in the area; is compatible with landscape character and capacity; avoids incremental expansion of one particular development type within a landscape whose distinct character relies on an intrinsic mix/distribution of a range of characteristics; avoids, where possible, the loss of locally important croft land; and would address drainage constraints.

In addition, Policy 47 relates to the Council's expectation that development proposals minimise the loss of Inbye/AppORTioned Croftland by avoiding siting development on the better part of the croft in terms of agricultural value and impeding use of the remaining croft land by virtue of its location.

In terms of the relevant policies, the proposal is considered acceptable in principle. The settlement pattern in this part of the district is characterised by single and small clusters of houses and farm buildings dispersed throughout the rural area. The introduction of a house on this site would not detract from the predominant settlement pattern and character or result in an unacceptable build up of houses. The plot itself is not in an overly prominent position in the landscape, benefits from a backdrop of hillside landform when seen from key viewpoints and also forms part of an established cluster of residential properties. An appropriately scaled house would not be overly obtrusive in this location. Although the formation of this plot would result in the loss of a small amount of upland croftland, it is not considered to jeopardise the overall function of the croft and can be seen as necessary if the larger land holding is to be brought back into productive use for crofting purposes. By virtue of its location and the existing private access track, the proposed plot would allow for easy access into the croft, and would not have a significant detrimental impact on the agricultural value of the holding.

The previous application on Cruive Croft (ref: 13/04717/FUL) was refused by Members as being contrary to Policy 47 of the Highland-wide Local Development Plan because it would lead to the loss of locally important croftland. The site proposed in the current proposal has taken heed of these concerns and proposes a more appropriate site for the house. The site is in a less conspicuous location and relates better to the existing properties which are located within the general area. It also avoids incursion into the main part of the croftland and in this way is considered an acceptable and appropriate solution towards enabling a house for management of the croft. The applicant has agreed to tie the proposed development to the land by Section 75 Obligation, which will ensure the criterion set out in Policy 47 is met. In the same way, the concerns expressed by local residents and the Community Council have been addressed.

8.4 Material Considerations

The Inner Moray Firth Proposed Local Development Plan has not yet been adopted, and although a material consideration, the proposed extension of the Hinterland boundary has as yet to be approved as part of the adoption process. As such, the relevant policies at present involve the extant settlement boundaries with the proposal located outwith the current extent of the Hinterland area. This situation has been confirmed by Development Plans as correct.

However, this application is recommended for approval subject to a Section 75 Obligation which would also satisfy the requirements set out in the emerging policies and takes into account the proposed inclusion of the site into the Hinterland boundary.

It is not considered that the proposal as now presented raises any significant amenity issues which would warrant refusal and given the separation distance between the site and the nearest dwellings there should be no loss of privacy or increased disruption.

The Transport Planning Team have raised no objection to the grant of planning permission subject to the development being in accordance with the Council's 'Access to Single Houses and Small Housing Development' guidance document SDB2 service bay arrangement. As such, several conditions and informative notes pertaining to the access, parking provision and visibility splays are recommended. In the absence of an objection from Transport Planning, it is considered these matters can be satisfactorily addressed in any subsequent detailed application.

Similarly the Area Environmental Health Manager has not raised any objection to the grant of planning permission, and although there is a lack of supporting information related to the proposed private water supply, the sufficiency of the borehole to provide water to the development in perpetuity can be addressed by suspensive condition.

9. CONCLUSION

- 9.1 The proposal is considered to represent an acceptable form of development which accords with the relevant Development Plan policies and those pertaining to safeguarding the character of the surrounding area and accordingly attracts a recommendation of approval. The proposal has taken heed of the concerns expressed with regard to the previous proposal which has resulted in a more appropriate choice of site both in terms of visual impact and loss of crofting land. There are no material considerations which would attract a different recommendation.

10. RECOMMENDATION

Action required before decision issued Y

Conclusion of Section 75 Agreement Y

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

1. No development shall commence until all of the matters specified below have been approved on application to the Planning Authority:
 - i. a detailed layout of the site of the proposed development (including site levels as existing and proposed);

- ii. the design and external appearance of the proposed development;
- iii. landscaping proposals for the site of the proposed development (including boundary treatments);
- iv. details of access and parking arrangements; and
- v. details of the proposed water supply and drainage arrangements.

Reason: Planning permission is granted in principle only and these specified matters must be approved prior to development commencing.

2. Any details pursuant to Condition 1 above shall depict a development featuring the following elements:-

- i. walls finished predominantly in a white/off-white wet dash render/smooth coursed cement render/natural stone;
- ii. a roof covering of natural slate;
- iii. windows with a strong vertical emphasis;
- iv. a roof symmetrically pitched of not less than 35° and not greater than 45°;
- v. predominantly rectangular in shape with traditional gable ends;

Reason: In the interests of amenity.

3. No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

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

4. No development shall commence until an appraisal to demonstrate that a sufficient private water supply can serve the development has been submitted to, and approved in writing by, the Planning Authority. This appraisal shall be carried out by an appropriately qualified person(s) and shall specify the means by which a water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, will not be compromised by the proposed development. The development itself shall not be occupied until the supply has been installed in accordance with the approved specification.

Reason: To ensure that an adequate private water supply can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

5. No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Drainage Systems (SuDS) and be designed to the standards outlined in Sewers for Scotland Second Edition, or any superseding guidance prevailing at the time) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of the house.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

6. No development shall commence until full details of all foul drainage infrastructure (including treatment plant and soakaway locations) have been submitted, to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with the approved details.

Reason: In order to ensure that private foul drainage infrastructure is suitably catered for, in the interests of public health and environmental protection.

7. No development shall commence until full details of the site access have been submitted in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines to, and approved in writing by, the Planning Authority. Thereafter, development shall progress in accordance with the approved details and shall be completed before first occupation of the house to the satisfaction of the Planning Authority.

Reason: To ensure that an adequate level of access is timeously provided for the development; in the interests of road safety and amenity.

8. Any details pursuant to condition 7 above shall show details of access, suitable for accommodating agricultural traffic, provided through the application site to the adjacent croftland. Prior to the first occupation of the dwelling, the access shall be formed in accordance with the details approved by the Planning Authority and thereafter shall be maintained in perpetuity.

Reason: To ensure that the development will not impede access to, or have an adverse impact on the purposeful use of, another part of the croft or other croftland.

9. Any details pursuant to condition 7 above shall show car parking spaces provided within the curtilage of the dwellinghouse and formed in accordance with The Highland Council's Access to Single Houses and Small Developments prior to first occupation of the dwellinghouse to which it relates, thereafter being maintained for this use in perpetuity. Provision, which shall exclude garages, shall be as follows:

- i. Two spaces per 1 to 3 bedrooms;
- ii. Three spaces per 4 to 5 bedrooms; and
- iii. Four spaces per 6 or more bedrooms

Reason: In order to ensure that the level of parking is adequate.

10. No development shall commence until details of a vehicle turning area within the application site, formed in accordance with The Highland Council's Road Guidelines for New Developments, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the turning area shall be provided in accordance with these approved details, prior to the first use of the development, and thereafter maintained as a turning area in perpetuity.

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

11. No development shall commence until full details of a covered and secure bin storage point have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the storage point shall be installed in accordance with these approved details prior to the first occupation of the house to the satisfaction of the Planning Authority.

Reason: To enable residents to keep bins outwith the public road and the path of oncoming traffic; in the interests of road safety.

12. No trees on or adjacent to the site are to be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority.

Reason: To ensure the protection of retained trees during construction and thereafter.

13. A Matters Specified in Conditions application, or other subsequent detailed application, shall provide a detailed Landscape Plan and maintenance programme to be approved by the Planning Authority. The Landscape Plan shall be implemented in full during the first planting season following commencement of development.

Reason: In the interests of amenity.

REASON FOR DECISION

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

INFORMATIVE NOTE REGARDING THE 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.

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.

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 (of emanating from) the application site. As per Scottish Planning Policy, planning permission does not remove the liability position of developers or owners in relation to flood risk.

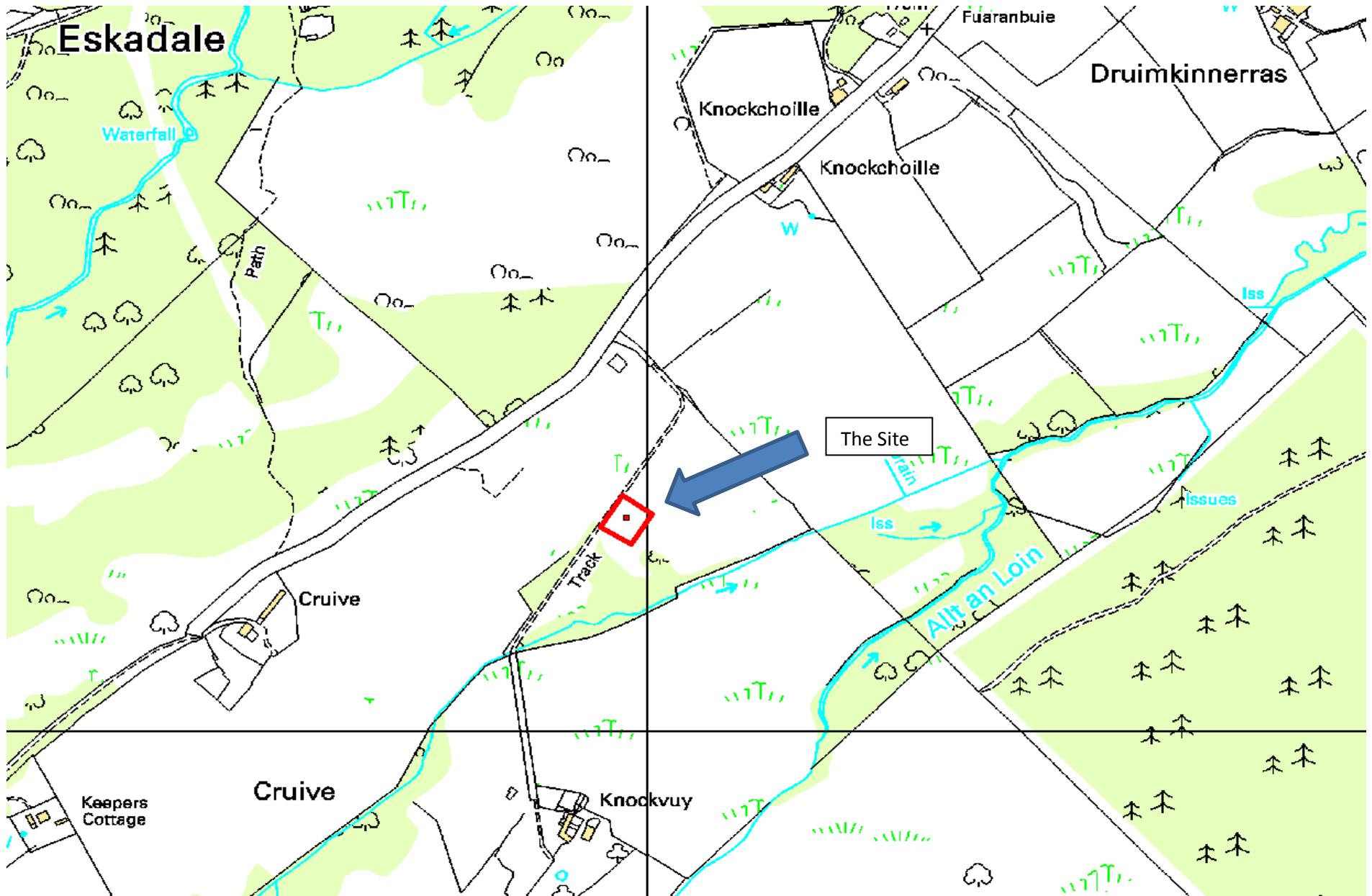
Road Openings Permit / Road Construction Consent: you may require consent from the Roads Authority prior to the commencement of this development. You are therefore advised to contact them direct to discuss the matter.

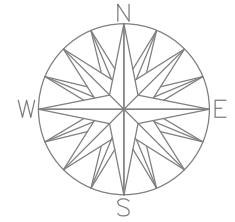
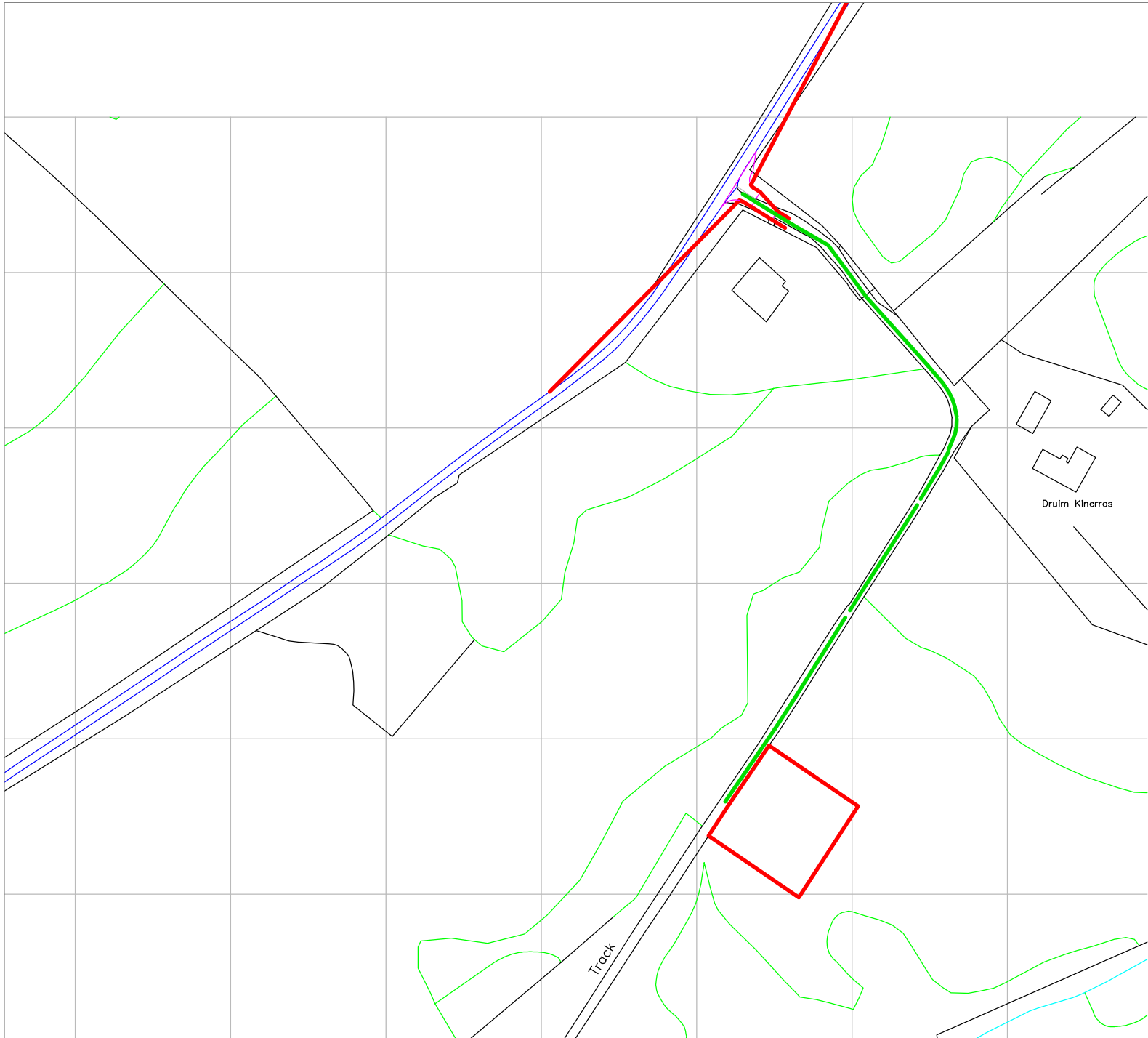
The development should be in accordance with the Council's 'Access to Single Houses and Small Housing Development' guidance document SDB2 service bay arrangement. The applicant should provide a completed private access checklist form, visibility splay drawing and SBD2 service bay access arrangement shown to scale on an appropriate site layout drawing.

Signature: Allan J Todd
Designation: Area Planning Manager – South
Case Officer: Stuart Morrison
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 Location Plan
Plan 2 Location Plan with access
Plan 3 Site Plan

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mrs Deirdre Bjerland	6 Kinerras, Kiltarlity, Beauly	26.07.2014	Against
Mrs Floris Greenlaw	Knockchoille, Kiltarlity, Beauly	17.07.2014	Against
Mrs Ian & Michelle Allsopp	Keepers Cruive, Kinerras Road, Kiltarlity	29.06.2014 & 22.07.2014	Against
Ms Y Tinlin	11 Culburnie, Kiltarlity	23.07.2014	Against
Mrs Siobhan MacDonald	Druim Kinerras, Kinerras Road, Kiltarlity	16.07.2014	Against
Ms Anne MacDonald	7 Kinerras, Kiltarlity	15.07.2014	Against
Kiltarlity Community Council		18.07.2014	Against





Drum Kinerras

Track

Planning Reference
Building Control Reference

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Building Design Consultant
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e-mail: bill@dunedin.go-plus.net
website: www.billmacdonald.co.uk

client
Mr J Waterspoon

project
Erection of dwelling at
Cruive, Kinerras,
Kitarlity

Location Plan

date
16/12/2013

scale
1:1250

drawn
wa macdonald

1213.1968.01

Written dimensions to be taken in all cases.
Any discrepancies to be reported immediately.
Contractor to check all sizes on site. copyright©

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Rev B 18.6.2014 Indicative layout added
Rev A 5.6.2014 Site adjusted

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Building Control Reference

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client
Mr J Wotherspoon

project
Erection of dwelling at
Cruive, Kinneas,
Kiltarity

Site plan

date
4/6/2014

scale
1:500

drawn
1213 1968.04B

Written dimensions to be taken in all cases.
Any discrepancies to be reported immediately.
Contractor to check all sizes on site. copyright©