

**THE HIGHLAND COUNCIL**

**SOUTH PLANNING APPLICATIONS COMMITTEE**  
**30 September 2014**

Agenda Item	7.9
Report No	PLS/076/14

**14/00742/PIP : A.R. Briggs Ltd**  
**The Deerstalker, Daviot**

**Report by Area Planning Manager - South**

**SUMMARY**

**Description** : Demolition of former Public House and formation of three house plots with associated services (as amended)

**Recommendation - GRANT**

**Ward** : 20 - Inverness South

**Development category** : Local

**Pre-determination hearing** : N/A

**Reason referred to Committee** : Objection by Community Council.

**1. PROPOSED DEVELOPMENT**

- 1.1 This is an application for planning permission in principle to demolish the former Deerstalker public house to the west of Daviot at Auchnahillin and form three house plots. During negotiations with the applicant, the number of plots was reduced from four to three. The layout shows two 4 bedroom properties and one 3 bedroom. Since this is an application for planning permission in principle no house designs have been submitted.
- 1.2 Access to the site is via the existing access to the Deerstalker, which also serves several houses and the Auchnahillin caravan park. The Deerstalker had its own foul drainage system using a septic tank and soakaway system. The proposal is to replace this septic tank to serve plots 1 and 2, with a new septic tank for plot 3. The submitted plan shows an existing soakaway within the caravan park that is to be re-used for additional run-off if necessary.
- 1.3 A bat survey, bat protection plan, supporting statement, soil sample results and details of the foul drainage Puraflo system were submitted as part of the application.
- 1.4 **Variations:** The number of plots has been reduced to three and proposals for foul drainage amended.

## 2. SITE DESCRIPTION

- 2.1 The site consists of the former Deerstalker Public House and car park. It is located adjacent to a small group of houses and the Auchnahillin Caravan Park. The site is generally flat with no planting or screening.

## 3. PLANNING HISTORY

- 3.1 The site has been the subject of several planning applications over the last decade ranging from changes of use to conversion of the pub to housing.

## 4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown Neighbour

Representation deadline : 21.03.2014

Timeous representations : 3

Late representations : 1

- 4.2 Material considerations raised are summarised as follows:

- No provision for access to Woodland View for lorries.
- Overdevelopment.
- Loss of privacy.
- Drainage problems within the area.
- Structure of access road is not suitable to support heavy vehicles.
- No soakaway as shown on the plans.

- 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 **Contaminated Land** : No objection. Records show site has historic use as a sheep dip. Recommend standard condition.
- 5.2 **Transport Planning** : No objection. Visibility on to the public road is restricted due to tree canopy. Recommend that this should be trimmed back.
- 5.3 **Environmental Health** : No objection subject to conditions in respect of dust control and work times.
- 5.4 **Strathnairn Community Council** : **Object** on the basis of overdevelopment; lack of apparent access to other properties for fuel delivery etc; site has history of drainage problems.
- 5.5 **SSE** : Advise that underground cable crosses the site.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

28	Sustainable Design
29	Design Quality and Place-Making
35	Housing in the Countryside (Hinterland Areas)
42	Previously Used Land
57	Natural, Built and Cultural Heritage
58	Protected Species

## **7. OTHER MATERIAL CONSIDERATIONS**

### **7.1 Draft Development Plan**

N/A

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

Managing Waste in New Developments  
Housing in the Countryside Siting and Design  
Highland Statutorily Protected Species

### **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**

The site is located within the Hinterland area as defined in the Highland-wide Local Development Plan under Policy 35. This states that the Council will presume against housing in the open countryside of the hinterland around towns. Exceptions to this policy will only be made where one of the exemptions, set out in the Policy, applies.

Two potential exceptions apply in this case.

- The conversion or reuse of traditional buildings or the redevelopment of derelict land; development of “brownfield” sites will be supported where a return to a natural state is not readily achievable and where a wider environmental benefit can be achieved through development.
- The proposal meets the Council’s criteria for acceptable expansion of a housing group (as detailed in the relevant supplementary guidance).

8.4 In addition, the Housing in the Countryside Siting and Design Supplementary Guidance states that the development of derelict land and buildings including small sites and redundant non-traditional buildings is supported where these have ceased to be required for their original purpose and where conversion to residential use would bring about an environmental benefit subject to appropriate siting and design within the immediate curtilage of the site. The Supplementary Guidance also set out the criteria for both the definition of a housing group, which is generally three or more houses that share a well-defined cohesive character, and whether or not a proposal is acceptable within the group.

8.5 The site is clearly brownfield in that it is a non-traditional building that has ceased to be required for its original purpose. There is therefore the potential for new houses if there is an overall environmental benefit. In this case the building has been vacant for several years with no interest from potential purchasers to continue the public house use. The building itself is likely to continue to degrade and become more of an eyesore. In addition, it is perhaps not the most attractive building in the area and the car park is flat and featureless. It is arguable, therefore, that three well-designed houses are likely to be an improvement.

8.6 On the basis of the definition in the Supplementary Guidance, there is no doubt that there is a housing group at this location. In relation to the criteria in the Guidance, it is considered that the proposal rounds off and infills the group; it reflects the character of the existing houses; does not constitute ribbon development; does not impact on trees; and does not intrude into a previously undeveloped field. Overall, therefore, it is considered that the proposal complies with the housing in the countryside policy.

#### 8.7 **European Protected Species**

Due to its location and building design a bat survey was requested. This was carried out over the summer and concluded that the building was used by:

- Five common pipistrelle bats, for non-maternity (summer-other) roosting.
- Two common pipistrelle bats, for summer maternity roosting.

The conservation status of the bats is defined as low and moderate. The survey states that adequate protection must be incorporated into the scheme and suggests the need for a Bat Protection Plan. This has been submitted and sets out a range of mitigation works that will ensure that the bat species will be protected and roosting opportunities maintained. This includes the timing of the works, provision of bat boxes and the provision of compensatory roosting within the new houses.

8.8 Policy 58 makes clear that development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species, will only be permitted where:

- There is no satisfactory alternative;
- The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and
- The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

The Committee must, therefore, consider whether or not the proposal complies with the above tests. These tests are set down in Regulation 44 of the Conservation (Natural Habitats, &c) Regulations 1994 (the Habitats Regulations).

8.9 The interpretation of the tests is difficult and there is little guidance from Scottish Government/Europe. Scottish Natural Heritage, as the Licensing Authority for European Protected Species, has produced some guidance. Members should note that the tests under planning and licensing are the same.

8.10 With regard to the first test – no satisfactory alternative – this is not defined in the Habitats Directive and there is no interpretation in any European or Scottish Government Regulations. The SNH Guidance states that they must be satisfied that no other option presented or possible can meet the identified and proven “need” for which a licence is sought. However, a degree of proportionality is allowed. Thus the test becomes more severe as the severity of the impact on the species increases. In this instance the survey shows a very limited impact on the species and also suggests a scheme of mitigation to compensate for the loss of roosts.

8.11 The second test refers to “imperative reasons of overriding public interest”. It also allows for a proportionality test. SNH advise that, under this test, they will take into account whether an activity or development is required to meet, or contribute to meeting a specific need, such as:

- maintaining the health, safety, education or environment (sustainable development, renewable or green energy, green transport) of Scotland’s people;
- complying with national planning policies;
- supporting economic or social development (nationally important infrastructure development projects, employment, regeneration, mineral extraction, housing etc.).

In this instance it is arguable that the proposal is seeking to comply with national planning policies in relation to meeting housing needs as expressed through the Highland-wide LDP and the Council’s policies for housing in the countryside.

Moreover, the proportionality issue discussed above must also be taken into account. Given the limited impact on bats and potential for mitigation, it is judged that the proposal meets the second test.

8.12 The third test relates to the potential impact on the conservation status of the species. Again, there is no information or guidance on how to assess a proposal under this test. However, previous discussions with SNH have suggested that the number of bats involved would need to be substantial unless there was a specific impact on a rare species. In this instance, the number of bats affected is small and the compensation put forward will help mitigate the impact.

8.13 Officers have difficulty in interpreting the above tests as there is little or no planning advice available on the subject. It is a matter for assessment by officers and Committee. In this instance, for the reasons outlined above, it is considered that the proposal meets the three tests as laid down by the Habitats Regulations.

#### 8.14 **Servicing**

The site takes access from the B9154, which serves several houses and the caravan park. Members will note that Transport Planning has no objection to the proposal but suggest some tree trimming to improve visibility. The applicant has no control over the trees and it would, therefore, be unreasonable to insist that the works are carried out, particularly as other residents are also affected. In relation to drainage, the applicant is proposing a Puraflo system which is designed for areas where percolation is difficult. Since this is a planning application in principle, a condition will be attached in relation to drainage. Moreover, the matter will also be considered at the building warrant stage. It is considered, therefore, that there is sufficient control at this stage to grant planning permission in principle.

#### 8.15 **Amenity**

The submitted indicative layout shows two houses generally on the site of the Deerstalker itself and a single house within the car park. The former are well separated from the existing houses within the group and will have no impact on the privacy or amenity of these houses. The single house will have more of an impact as it is located between two existing houses. However, it is over 26 metres from one house and approximately 16 metres from the other. Moreover, in relation to the latter, the proposed house is at an angle and is not directly facing. The outlook of both houses will be altered, but the impact is not significant enough to warrant refusal. It should be noted that the layout is indicative only and a detailed scheme will require to be submitted in due course.

#### 8.4 **Material Considerations**

Representations have been made on several matters, notably overdevelopment, loss of privacy, drainage problems, structure of the access road and there is no soakaway as shown on the plans. These have generally been dealt with above. In relation to overdevelopment, officers considered that the original proposal for four houses was overdevelopment. However, the reduction to three is considered acceptable.

The access road has accepted larger vehicles in the past as noted by one of the representations and its previous use where delivery lorries were no doubt a regular occurrence. There is no reason, therefore, to consider that it is not capable of accepting larger vehicles.

## 8.5 **Other Considerations – not material**

The lack of provision for access to Woodland View for lorries is a private matter. The issue was raised with the applicant who advised that a right of access existed to the garden gate of Woodland View and that the matter could be discussed further if necessary. However, it is not for the Planning Authority to mediate over the matter. Similarly, there is contention over whether or not there is a soakaway on the caravan site that the applicant has a right to use. The applicant has confirmed via his solicitor that such a right exists and there is no evidence to the contrary.

## 9. **CONCLUSION**

9.1 It is considered that the proposal complies with the Housing in the Countryside Policy, that there are no significant amenity or infrastructure issues, and that the proposed bat mitigation is acceptable.

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 / 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;
  - iv. details of access and parking arrangements;
  - v. details of the proposed water supply and drainage arrangements; and
  - vi. details of the proposed location for the storage of refuse bins for collection.

**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 or good quality slate substitute;
  - iii. single storey or 1½ storeys in height;
  - iv. windows with a strong vertical emphasis;
  - v. traditional "peaked" roof dormers and porches are encouraged;
  - vi. a roof symmetrically pitched of not less than 35° and not greater than 45°;
  - vii. predominantly rectangular in shape with traditional gable ends;
  - viii. a principal elevation facing the adjacent public road.

**Reason :** In order to respect the vernacular building traditions of the area and integrate the proposal into its landscape setting; in the interests of visual amenity.

3. The houses for which planning permission in principle is hereby granted shall not be occupied unless the surface water drainage associated with the development including areas of hardstanding and the driveway, is installed and completed to the satisfaction of the Planning Authority and in accordance with SEPA's guidelines on SUDS. Full details of proposed arrangements shall form part of the Matters Specified in Conditions referred to in condition 1 hereof. There shall be no commencement of this development until such details are submitted to and approved in writing by the Planning Authority.

**Reason :** In order to ensure that the site is properly and adequately drained.

4. Full details of the method by which foul drainage is to be provided on site shall be included as part of the application for Matters Specified in Conditions. The house shall not be occupied unless the method by which foulwater drainage is to be provided on site has been implemented and completed to the satisfaction of the Planning Authority.

**Reason :** In the interests of public health.

5. The houses shall not be occupied until the provision for the parking and turning of two cars within the curtilage of each house is made and shall be maintained at all times thereafter.

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

6. No development shall commence on site until details of boundary enclosures have been submitted for the approval of the Planning Authority.

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



7. Development and work shall progress in accordance with the mitigation measures and timescales contained within the document “Bat Mitigation Plan and Working Method Statement” produced by Coachman Bat Consultancy and dated 28 August 2014.

**Reason:** In order to safeguard European Protected Species.

8. Where development has not commenced within 12 months of the date of this permission, no development shall commence until a bat survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

**Reason:** In order to safeguard European Protected Species.

9. No development shall commence on site until a scheme for protecting properties adjacent to the development site from dust has been submitted to, and approved in writing by, the Planning Authority. The approved scheme shall be implemented before any part of the development is brought into use and thereafter be maintained.

**Reason :** In order to safeguard the amenity of neighbouring properties and occupants.

10. No development shall commence until a scheme to deal with potential contamination within the application site has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:
- i. the nature, extent and type of contamination on site and identification of pollutant linkages and assessment of risk (i.e. a land contamination investigation and risk assessment), the scope and method of which shall be first submitted to and approved in writing by with the Planning Authority, and undertaken in accordance with PAN 33 (2000) and British Standard BS 10175:2011+A1:2013 Investigation of Potentially Contaminated Sites - Code of Practice;
  - ii. the measures required to treat/remove contamination (remedial strategy) including a method statement, programme of works and proposed verification plan to ensure that the site is fit for the uses proposed;
  - iii. measures to deal with contamination during construction works;
  - iv. in the event that remedial action be required, a validation report that validates and verifies the completion of the approved decontamination measures;
  - v. in the event that monitoring is required, monitoring statements submitted at agreed intervals for such time period as is considered appropriate in writing by the Planning Authority.

Thereafter, no development shall commence until written confirmation that the approved scheme has been implemented, completed and, if required, on-going monitoring is in place, has been issued by the Planning Authority.

**Reason:** In order to ensure that the site is suitable for redevelopment given the nature of previous uses/processes on the site.

## **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 LIMITS**

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), an application or applications for the approval of matters specified in conditions attached to this planning permission in principle must be made no later than whichever is the latest of the following:

- i. The expiration of THREE YEARS from the date on this decision notice;
- ii. The expiration of SIX MONTHS from the date on which an earlier application for the requisite approval was refused; or
- iii. The expiration of SIX MONTHS from the date on which an appeal against such refusal was dismissed.

The development to which this planning permission in principle relates must commence no later than TWO YEARS from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained)., whichever is the later. If development has not commenced within this period, then this planning permission in principle shall lapse.

## **FOOTNOTE TO APPLICANT**

### **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.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 & 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 dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. 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>

### **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.

**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](mailto:env.health@highland.gov.uk) for more information.

### **Protected Species - Contractors' Guidance**

You must ensure that all contractors and other personnel operating within the application site are made aware of the possible presence of protected species. They must also be provided with species-specific information (incl. guidance on identifying their presence) and should be made aware of all applicable legal requirements (incl. responsibilities and penalties for non-compliance).

### **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. 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/protecting-scotlands-nature/protected-species](http://www.snh.gov.uk/protecting-scotlands-nature/protected-species).

### **Underground Cables**

You are advised that SSE Power Distribution has advised that their records show that there are low voltage underground cables within the site. You should contact them before commencing development.

**Building Regulations:** Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at [BuildingStandards@highland.gov.uk](mailto:BuildingStandards@highland.gov.uk) or on 01349 886606.

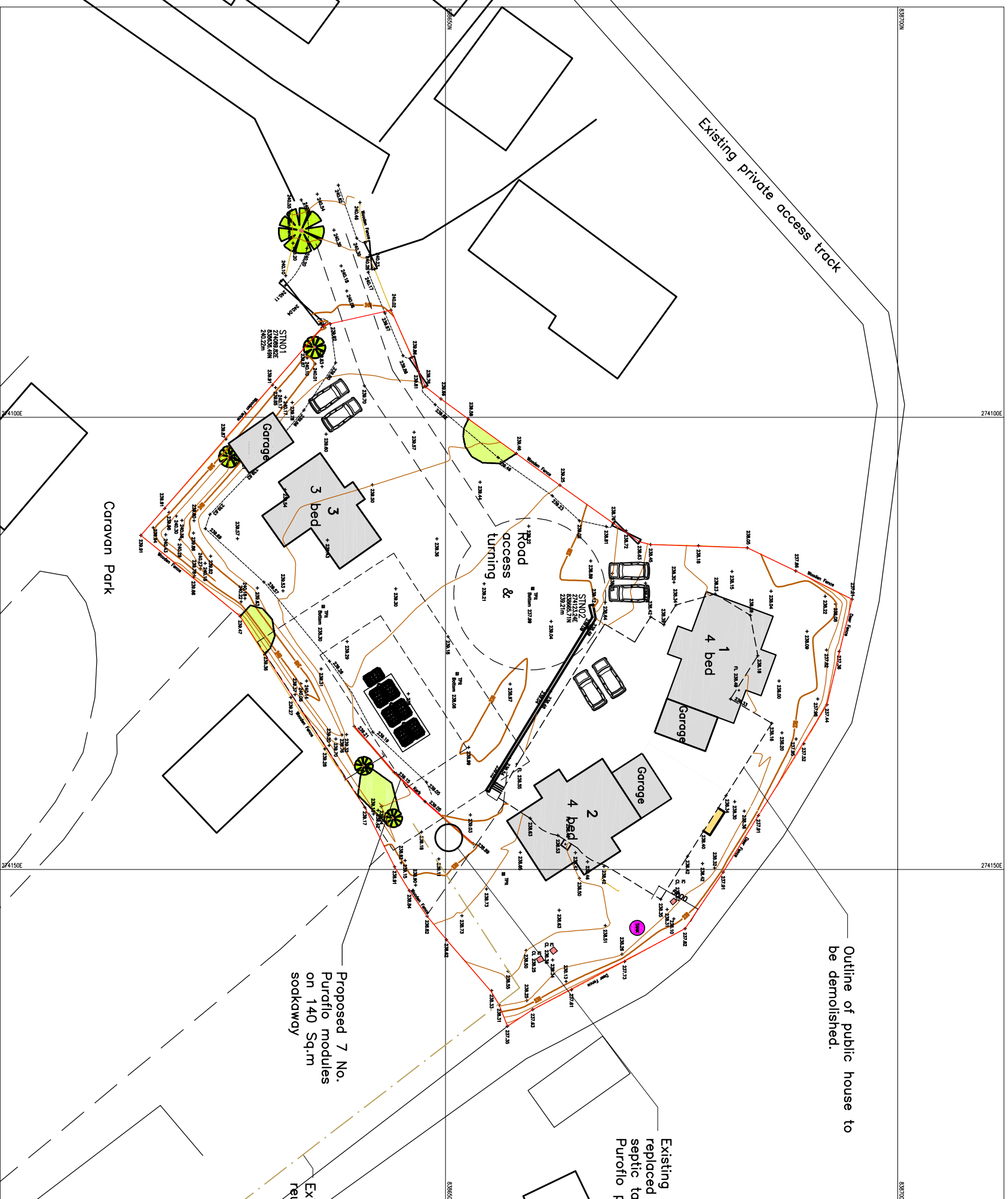
Signature: Allan J Todd  
Designation: Area Planning Manager - South  
Author: Jim Harbison  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan – Drawing No. 15.13.02  
Plan 2 – Site Plan – Drawing No. 15.13.01 REV H

## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
D. Findlay	Woodland View Daviot	17.03.2014	Against
Mr and Mrs P. MacKintosh	Aabrae House Daviot	18.03.2014	Against
Mr & Mrs DB & AE Gibson	Auchnahillin House and Auchnahillin Caravan & Camping Park Daviot	19.03.2014	Against
Mr Ian Hunt	Hilian Daviot Inverness	25.03.2014	Against



7 No. Puroflo modules on 140 Sq.m of 25 – 50mm nominal size broken stones in layer 275mm deep.



Proposed 7 No. Puroflo modules on 140 Sq.m soakaway

Outline of public house to be demolished.

Existing septic tank to be replaced with new 16 person septic tank with pump to Puroflo peat modules

Existing soakaway to be reused as additional run-off.

**Matheson Mackenzie**  
**ROSS ARCHITECTS**  
 Royal Bank Buildings, High Street, Dingwall IV15 9HA  
 t 01349 865332 f 01349 865746  
 e info@mross.co.uk

Neil H Ross Director RIBA RIAS A88  
 www.mross.co.uk

Proposed housing development of The Deerstalker  
 Daviot  
 Inverness IV2 5QX

drawing Site Plan

scale	1:500	A3	date	Oct 2013
drawn	NHR		status	redraft
no	15.13.01		rev	H