

THE HIGHLAND COUNCIL

PLANNING APPLICATIONS COMMITTEE  
16 DECEMBER 2014

Agenda Item	6.3
Report No	PLN/087/14

14/01943/PIP: Bayfield Proprietors  
Land East of Lower Bayfield Nigg Tain

Report by Area Planning Manager

**SUMMARY**

**Description :** Erection of house, formation of vehicular access (planning in principle)

**Recommendation - GRANT**

**Ward :** Ward 8 - Tain and Easter Ross

**Development category :** Local Development

**Pre-determination hearing :** None

**Reason referred to Committee :** Objection from Nigg and Shandwick Community Council.

**1. PROPOSED DEVELOPMENT**

- 1.1 The application is for a single house and the formation of a vehicle access from the B9175 (Arabella to Nigg road).
- 1.2 Pre application advice was sought for the erection of three houses (12/02817/PREAPP) and it was considered that a single house *may* be acceptable.
- 1.3 There is an overhead electricity line in the southwestern part of the area – generally within application site 14/01944/PIP.
- 1.4 The **agent has submitted a supporting statement** – a ‘Sustainable Design Statement’ to accompany the application. This indicates that:

*The original intention was to lodge a single application for four plots, but due to the generous size of individual sites, the planning fee was judged to be uneconomic and accordingly four individual applications were submitted. It is suggested that each application is considered in its own right but within the context of the wider project for four houses. Each site can be viewed on its individual merits in relation to the Development Plan but also in conjunction with what is in effect an overall Masterplan. No intention to look towards developing this site in the future due to the constraint of requiring to upgrade the vehicle access to adoptable standards.*

*Initial discussions in April 2011 were in relation to one house at the top of the brae, with access taken from the wartime ramped vehicular access. Ongoing discussion led to the concept of a 3 house group. A pre-application response (12/02817/PREAPP) advised that one house, appropriately designed and set back from the escarpment edge, may be acceptable, more than one house at this point would be considered a potential overdevelopment.*

*A further follow up investigated the potential for principle of three new houses being developed in an extension to this woodland residential setting and making use of an otherwise awkward field corner.*

*As the principle of one house at the top of the access road was considered a reasonable development in its own right, it was decided to keep this i.e. 1 house plus 3 houses. The applicant is committed to 1 and/or 1½ storey houses with slate finish, with traditional shape and form.*

*Mature tree at the top of the embankment will be retained and protected. Other species such as Beech, Rowan and Birch proposed for initial screening with strategic hardwood planting including Oak, Beech, Rowan and Birch.*

*The scale of plot has been designed to replicate that of the existing houses. This part of the field is significantly lower than the houses near Bayfield House and the distance away from there and the Nigg to Pitcalnie road ensures visibility from these will be virtually nil and will be completely invisible from the Nigg to Arabella road.*

*The individual plots sizes are sufficiently large enough to accommodate private SuDS and foul drainage arrangements for each house. This is a free draining area and no soakaway problems are anticipated.*

*Planning Policy - As acknowledged in the pre-application response, the general existing pattern of houses in the area is of smaller groupings and clusters and occasional individual houses in a scattered pattern. The single house proposed at the top of the embankment would share an access with the others, but would present itself as a separate entity, not forming part of the grouping.*

1.5 **Variations:** No variations made to the application since lodging.

## **2. SITE DESCRIPTION**

2.1 The land uses in the area are agricultural with occasional individual houses or small groupings of houses associated with the agricultural use. The largest concentration of houses is at Nigg village which is around 650m to the south.

The site is located to the west of the minor single track road from Nigg village to Pitcalnie and to the north of the grouping of houses at Pitcalnie Holdings and Redburn House. The site is located to the western edge of the agricultural field which is elevated above the dual track B9175 (Arabella to Nigg road) to the west and the houses of Lower Bayfield and Lower Pitcalnie.

The change in levels in the field results in the main outlook from the site being to the west and southwest over Nigg Bay and the Cromarty Firth.

The field boundary to the west is formed by the edge of the old cliff line; it is down through this that the proposed access to the site is taken onto the B9175. This has been used as an agricultural access in the past, but is currently overgrown with vegetation. The point of access onto the B9175 has good visibility.

The southern boundary of the field is formed by vegetation and a burn running from east to west.

There is an overhead electricity line in the southwestern corner of the site.

The change in level from the B9175 and the following cliff line, and the slope of the field means that the site would be hidden from the B9175 and would only be visible from distance to the west side of Nigg Bay. The bottom of the field is difficult to clearly identify from the U1466 due to the changing levels. It is considered that it is unlikely that the development of the ground would be significantly visible from the U1466; however the access track from the B9175 would be clearly apparent from the public road.

### **3. PLANNING HISTORY**

- 3.1
- No previous planning applications for the site.
  - Pre-application enquiry 12/02817/PREAPP Erection of three houses 23.08.2012. This advised that a single house would be acceptable, but that any more than one house would be an overdevelopment of the site.
  - 14/01944/PIP, 14/01945/PIP, 14/01121/PIP – 3 houses located to the south of the current application (14/01943/PIP). All of these applications would share a common access to the public road.

### **4. PUBLIC PARTICIPATION**

4.1 Advertised : Schedule 3 Unknown neighbour. Expiry 13.06.2014

Representation deadline : Expiry 13.06.2014

Timeous representations : 2

Late representations : 0

4.2 Material considerations raised are summarised as follows:

- Access and increased traffic
- Noise
- Drainage
- Impact on view
- Loss of privacy
- Reduction in property prices
- Effective doubling in number of houses completely alters the character of the area
- Planting of additional trees leading to overshadowing
- Flooding risk to the site

## 5. CONSULTATIONS

- 5.1 **Transport Planning - Concerned about further house development** along the B9175 leading to a proliferation of accesses. This is a high speed (60mph) road with a high volume of traffic and the number of access junctions, and particularly houses with direct frontage onto the road, should be kept to a minimum. However, this development will have one access serving up to 4 houses which will be located some distance from the road. Also, the number of existing accesses on this section of road is limited. Therefore **in this instance we do not propose to object to this development subject to conditions:**
- 5.2 **Forestry Officer (03.02.2014)** : The proposed sites lie along the western boundary of a field, overlooking the Cromarty Firth, which is designated as a SSSI & SPA. There is car park opposite the proposed access with a core path which leads down to the RSPB bird hide at Nigg Bay Nature Reserve. The proposed access is to be taken along what appears to be an old farm track which cuts across a gorse bank into the field. There are a number of mature trees lining the old track and these must be retained and protected as part of any improvement to this access. There may also be an opportunity to enhance this feature with additional planting. The two plots to the south back on to mature woodland surrounding Redburn House. This woodland is locally important providing a setting for Redburn House and a valuable wildlife corridor along the burn. Any detailed application will require adequate separation between houses and these trees to avoid future conflict due to issues such as restricted light, views and safety concerns. Indicative areas of tree planting are shown on the Masterplan. Tree planting should be concentrated along the eastern boundary of the sites to help provide screening from the road and properties above, as well as defining the extent of the development. All structural tree planting should fall within a clearly defined communal area which is then managed under a factoring agreement. **Conditions are recommended for any approval.**
- 5.3 **Historic Environment Team** – No sensitive historic environment issues with the proposed development.
- 5.4 **Housing Development Manager** – The Council's Development Plan policy 31 – Developer Contributions – does not apply to this application, although does apply when the adjacent applications are taken into consideration (14/01944/PIP, 14/01945/PIP, 14/01121/PIP).
- 5.5 **Nigg and Shandwick Community Council - Object** to the applications (04.06.2014) - Nigg and Shandwick Community Council have a number of concerns regarding the above developments:
- The applications are each for individual houses all served by the one new road. They are all adjoining properties and therefore constitute a development and should be treated as such and come under section 42 of the Planning Act - – *Planning Comment – This section of the Act does not*

*relate the development of more than one site. Whilst the applications have been submitted as individual proposals, they are being assessed at the same time due to their cumulative impact and association to each other.*

- The overall four applications site takes an area out of the existing agricultural and grazing land which is contrary to the Inner Moray Firth Local Development Plan. It is also contrary to 'Rural Development' page 19 paras 92 to 96 inclusive and also para 97 'Prime Quality Agricultural Land' page 20 of the Scottish Planning Policy - February 2010. – *Planning Comment* – see *section 8.3 in relation to policy appraisal*
- Proposed access road from the B9175 which has already had multiple fatalities and many injuries from a considerable number of traffic accidents. Even if only one development was approved it would mean that the road would have to be constructed. There is also concern that as the road is on the edge of a deep slope there could be a danger of land slippage. It is anticipated that the Shore Road (B9175) will become busier as the Nigg Yard expands. – *Planning Comment – Transport Planning have indicated that the proposed access arrangements are acceptable subject to compliance with the minimum technical standards, particularly relating to visibility splays. The proposed access point is on a relatively straight section of national speed limit road (60mph). The construction of the access and the land stability are engineering matters for the developers to fully detail during the consideration of a detailed application(s).*
- Development of housing will impinge on the ambience of the area and continue the gradual process in turning this area of outstanding beauty from a rural farming/agricultural area into an urban area – *Planning Comment – applications are considered on their merits against the development plan policies in operation at any point in time. A balance has to be continually struck between permitting acceptable or preventing unacceptable development.*
- Surface and foul water drainage – *Planning Comment – It is for a detailed planning application to develop suitable foul and surface water drainage solutions. The Agent has indicated that the existing drainage on the site is considered, from an agricultural perspective, to be good.*

**Nigg and Shandwick Community Council would therefore request that all four of the proposed developments be rejected.**

## **6. DEVELOPMENT PLAN**

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
31	Developer Contributions
32	Affordable Housing

36	Development in the Wider Countryside
51	Trees and Development
52	Principle of Development in a Woodland
64	Flood Risk
65	Waste Water Treatment
66	Surface Water Drainage

## 6.2 **Ross and Cromarty East Local Plan(as continued in force April 2012)**

Refer to the Highland Wide Local Development Plan

## 7. **OTHER MATERIAL CONSIDERATIONS**

7.1 **Highland Council Supplementary Planning Policy Guidance - Interim Supplementary Guidance on Housing in the Countryside and Housing and Design**

7.2 **Scottish Government Planning Policy and Guidance**  
Control of Woodland Removal (2009)

## 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.

### 8.3.1 **Development Plan Policy Assessment**

The proposal has to be assessed against the policies contained in the Highland Wide Local Development Plan, in particular to policies 28, 29, 36, 51, 52 and 66 as set out in section 6.1 and the relevant related Interim Supplementary Guidance.

8.3.2 The **proposal is for a single house**, although set within the context of an additional 3 houses (applications 14/01944/PIP, 14/01945/PIP, 14/01121/PIP). The application is shown as having a single access point from the B9175; this point of access and the resultant access track up the cliff line and into the agricultural field is the same on the other applications (applications 14/01944/PIP, 14/01945/PIP, 14/01121/PIP), with the alignment only differing when it reaches the field.

8.3.3 It is considered that the **development as submitted would bring a considerable change** to the built form of development currently found in the area. This is generally characterised by a scatter of occasional single houses, with looser groupings of several houses. There are also groups of cottages associated with farms and steading complexes.

8.3.4 The **initial pre-application enquiry** and subsequent response related to the principle of development of a single house; this enquiry area now forms application 14/01943/PIP. This concluded that a single house of traditional form and materials set back from the western edge of the site would be acceptable in principle, subject to design and the use of traditional material finishes.

8.3.5 Due to the topography, the vegetation and the watercourses at this location, this application site within the field is clear and distinct from the existing grouping of houses at Pitcalnie Holdings and Redburn House; and from Lower Bayfield and Lower Pitcalnie. The 3-dimensional spatial relationship to the existing housing is very different to the apparent close proximity on a 2-dimensional plan. It is considered that due to the changes in levels, the development of a single storey house on the site is unlikely to be significantly visible from the adjacent public roads, but this will be dependent on tree leaf cover and immediately local level changes. Given the location of the site, it is considered that a bespoke design building should be provided for the site; a standardised off-the-shelf design would be a missed opportunity in design terms, both in relation to the building envelope and finishes, but also in relation to the siting, orientation and relationship of the building to the topography of the wider site and landform. These are identified in the planning conditions.

#### 8.3.6 **Development Plan Policy**

The Planning Authority has to assess the proposals against the Development Plan policies and associated Supplementary Guidance. In this instance, the main policies are the Highland Wide Local Development Plan policies 28, 29 and 36 and the Interim Supplementary Guidance on Housing in the Countryside and Housing and Design.

The policies General Considerations (s5.2) include that proposals:

- demonstrate a consideration of siting principles and layout, building design and residential amenity in line with the Siting and Design guidance
- are compatible with existing servicing infrastructure

8.3.7 At s7.1 of the Supplementary Guidance to the policy, it notes that in areas outwith the hinterlands of towns, development of new housing of an appropriate location, scale, design and materials may be acceptable, particularly where it supports communities experiencing difficulty in maintaining population and services. In these areas, the settlements identified within the relevant Local Plans are the preferred locations for most development. Furthermore, development proposals need to demonstrate appropriate siting complying with the Siting and Design guidance in the document.

8.3.8 The application is for a single house and it is considered that this would conform to the general scatter of individual houses in the wider area. It is considered that the development of a single house on the site **reflects and respects the character, cohesiveness, spacing and amenity of the existing individual houses in the area.**





- ii. a roof covering of natural slate;
- iii. single storey in height;
- iv. windows with a strong vertical emphasis;
- v. a roof symmetrically pitched of not less than 40° and not greater than 45°;
- vi. predominantly rectangular in shape with traditional gable ends;

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) All access arrangements shall be provided to the satisfaction of the Planning Authority, in consultation with the Roads Authority and in accordance with the attached Schedule.

1. No development shall commence until the site access has been constructed in accordance with The Highland Council's Access to Single Houses and Small Housing Developments guidelines and the attached Access Schedule (dated 29/05/2014), with:
  - i. the junction formed to comply with drawing ref. SDB2; and
  - ii. visibility splays of 2.4m x 215m (the X dimension and Y dimension respectively) in each direction formed from the centre line of the junction.

Within the stated visibility splays, at no time shall anything obscure visibility between a driver's eye height of 1.05m positioned at the X dimension and an object height of 0.60m anywhere along the Y dimension.

2. A Passing place shall be provided at the mid-point of the access road to permit passage of emergency and service vehicles.
3. A turning area must be provided at the south end of the access road for use by emergency vehicles and service vehicles.
4. Prior to the first occupation of the dwelling house, car parking spaces shall be provided within the curtilage of the dwelling house and formed in accordance with The Highland Council's Access to Single Houses and Small Developments prior to first occupation, 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.
5. A vehicle turning area shall be provided within the curtilage of each house formed in accordance with The Highland Council's Road Guidelines for New Developments. The turning area shall be provided prior to the first use of the development and thereafter maintained as a turning area in perpetuity.

6. A bin storage area of not less than 2m x 1m per house shall be provided at the rear of the service layby to facilitate refuse collection. This shall be in accordance with The Council's Supplementary Planning Guidance – 'Managing Waste in New Developments'.

Reason : In the interests of road safety.

- (4) All drainage arrangements shall be to the satisfaction of the Planning Authority, in consultation with the Scottish Environment Protection Agency, the Drainage Authority, and the Building Standards Authority. For the avoidance of doubt, foul drainage shall be by means of a secondary treatment plant and land soakaway.

Reason: In the interests of amenity and public health.

- (5) No development shall start on site until a fully detailed scheme of landscaping for the site which includes a scheme of maintenance, has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the landscaping plan shall identify all trees that are to be retained, all trees that are to be removed, details of boundary treatments, details of a root protection area, details of trees to be protected during the construction period and all hard and soft landscaping. The development shall thereafter be carried out in accordance with the details thereby approved. All planting thereby approved shall be undertaken in the first planting season following the completion of the house. Any plants which die, are removed, or become seriously damaged or diseased within a period of five years shall be replaced by the developer within the following planting season to the original specification unless otherwise agreed in writing with the Planning Authority.

Reason : In the interests of amenity.

- (6) The size, orientation and location of the house as shown on the approved plans is indicative only and no development shall commence until these matters have been approved on application to the Planning Authority.

Reason: In order to enable the planning authority to consider this matter(s) in detail prior to the commencement of development; in the interests of amenity.

- (7) No development shall commence until a supplementary plan outlining the extent of the residential curtilage to be associated with the development hereby approved has been submitted to, and approved in writing, by the Planning Authority. Thereafter, all land included within the residential curtilage delineated on the approved supplementary plan shall be taken as being the area to which any change in use of land permitted by this planning permission applies. For the avoidance of doubt, the use of any land lying outwith the residential curtilage delineated on the approved plan shall remain unchanged by this planning permission.

Reason: In order to enable the planning authority to consider this matter(s) in detail prior to the commencement of development; in the interests of amenity.

- (8) Notwithstanding the provisions of Article 3 and Class(es) 1-3 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development of a type identified in the aforementioned classes shall take place within the curtilage of the house without planning permission being granted on application to the Planning Authority.

Reason: In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

- (9) A minimum separation of 15m is required between existing trees and any proposed house and 5m from any proposed non-residential outbuilding in order to avoid future conflict due to safety and nuisance concerns. Permitted Development rights shall be removed for any residential buildings or extension to the house which encroach into this separation.

Reason: In order to secure an appropriate distance between existing trees and any new development.

- (10) A Matters Specified in Conditions application shall require a Tree Protection Plan and Arboricultural Method Statement to be submitted to and subsequently approved in writing by the planning authority, in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction). With effect from the date of this permission, no trees 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.

- (11) A Matters Specified in Conditions application shall provide a detailed Tree Planting Plan and maintenance programme to be approved by the planning authority. The Tree Planting Plan shall be implemented in full during the first planting season following commencement of development. All planting shall take place in clearly defined communal areas to ensure a consistent management approach.

Reason: In the interests of amenity.

## **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.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).

### **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 the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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>

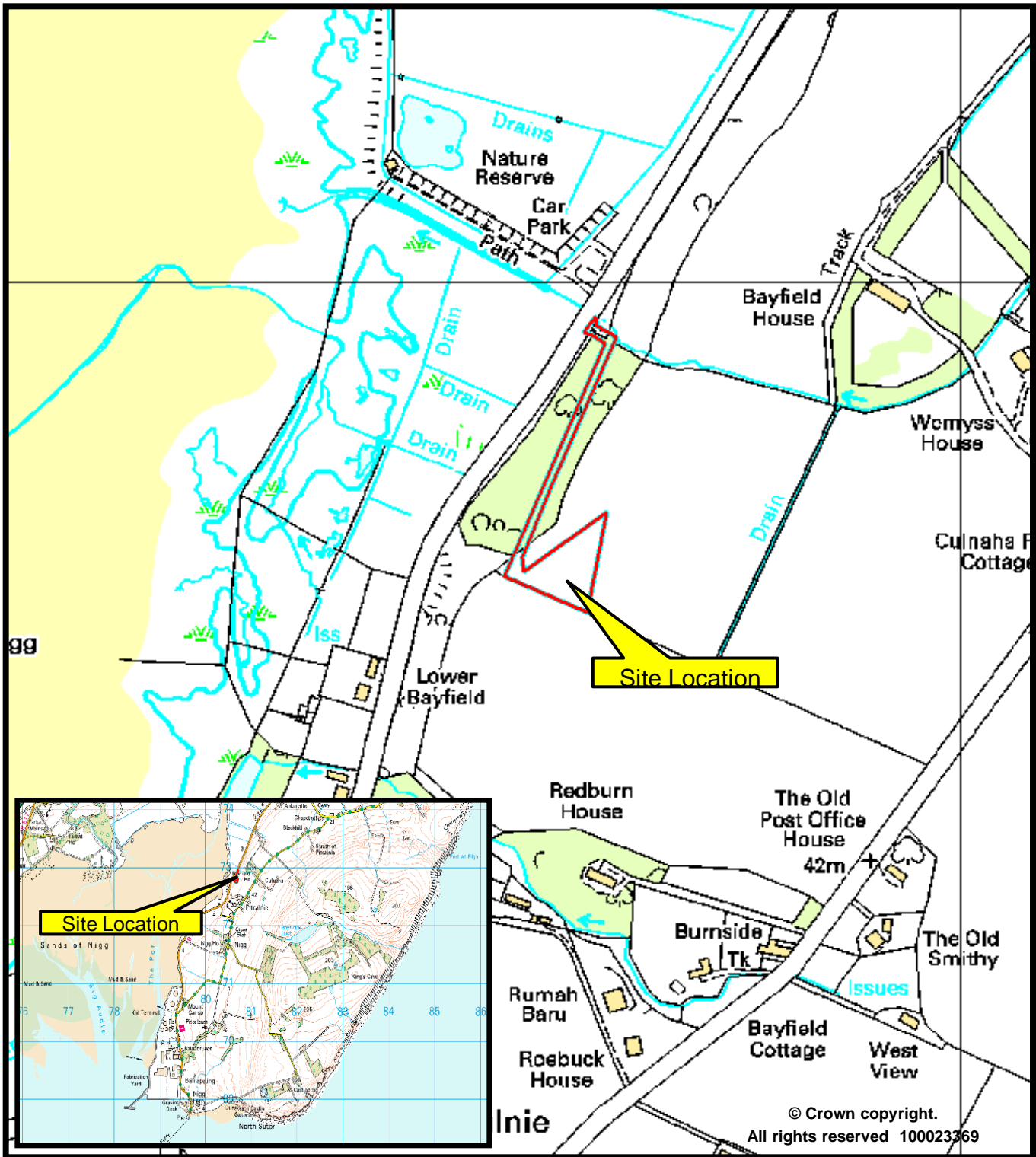
Please note, however, that the Council reserves the right to recover all costs for repairing any damage to the public road which can be attributed to construction works for this development.

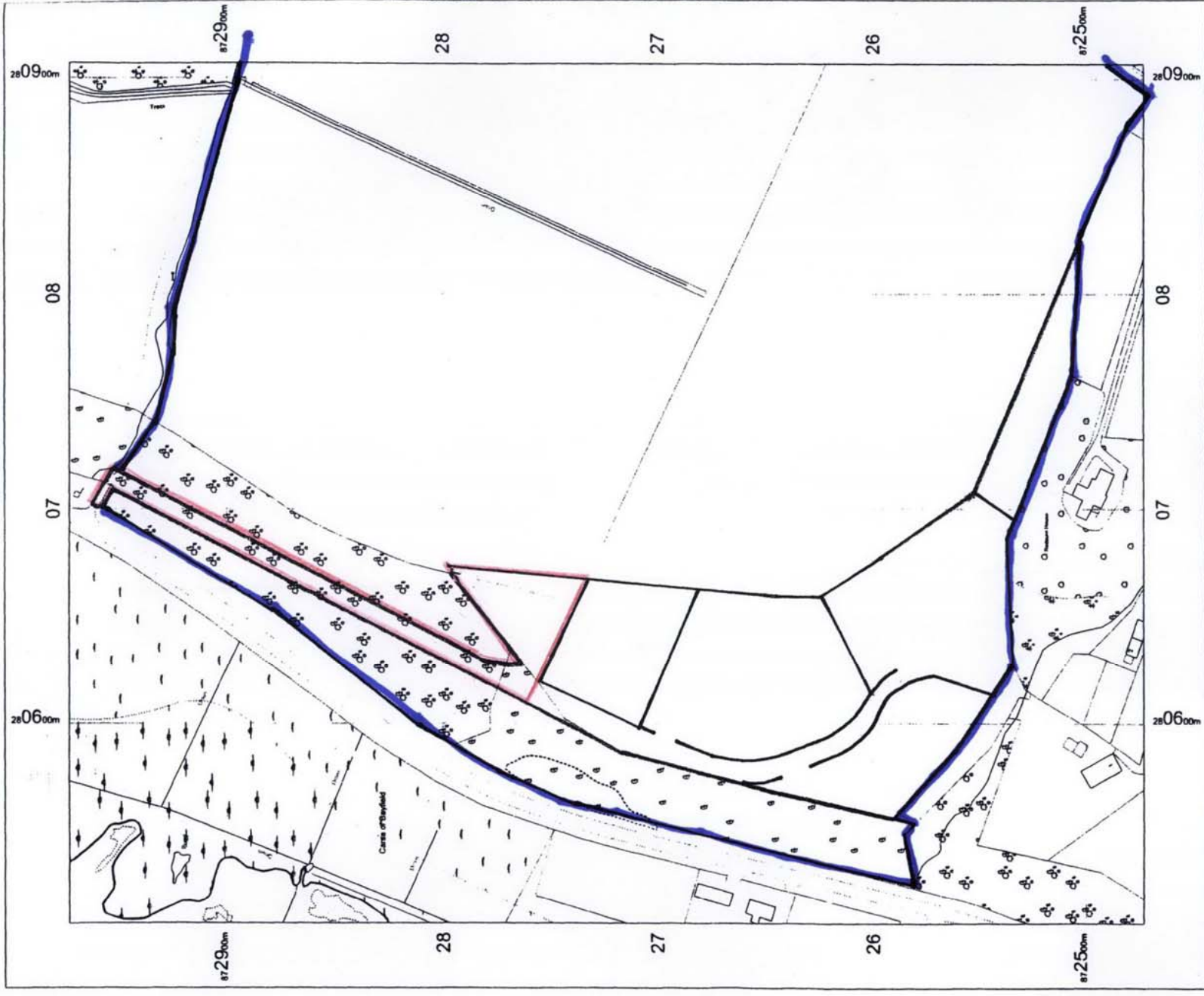
Please also note that, under the New Roads & Street Works Act (1991) Section 109, a Road Opening Permit is required to be obtained by the applicant from the Roads Authority for the installation of the access across the verge. The current fee is £113.

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

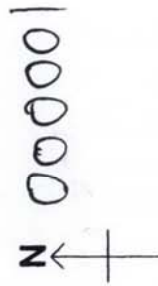
Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Signature: Dafydd Jones  
Designation: Area Planning Manager (North)  
Author: Bob Robertson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans:  
Plan 1 – Location Plan





RECEIVED 07 MAY 2014



**ERECTION of HOUSE**  
**Bayfield Proprietors**  
**Land SW of Bayfield**  
**LOCATION PLAN**

OS Mastermap  
 30 May 2013. ID: BLJT-00232890  
 www.planningapplicationmaps.co.uk

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